

Council of the District of Columbia

Committee on Consumer and Regulatory Affairs

Report on FY 2004 Budget Request of 2003

1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004

The Committee on Consumer and Regulatory Affairs (“Committee”) presents its report and recommendations on the Mayor’s proposed Budget for Fiscal Year (“FY”) 2004, for the budgets of the agencies under the Committee, and recommends Committee of the Whole (“COW”) approval of the report.

The Committee exercises oversight of District agencies responsible for the comprehensive regulation of businesses to ensure the protection of the public’s health and safety, land and building uses, occupations and professions, rental housing, condominiums, banking and financial institutions, and insurance and securities regulation. These agencies include the Alcoholic Beverage Regulatory Administration (“ABRA”), the Department of Consumer and Regulatory Affairs (“DCRA”), the Department of Banking and Financial Institutions (“DBFI”), and the Department of Insurance and Securities Regulation (“DISR”).

Also, while not a line item in the District's budget, the Committee also exercises oversight over the District of Columbia Housing Authority (“DCHA” or “Housing Authority”), which had been under a court-ordered receivership for 5 years that came to an end during Council Period XIII. Based on enabling legislation passed by the Council at the end of calendar year 2000, the DCHA is a newly constituted Housing Authority that has a new Executive Director and is governed by a newly formed Board of Commissioners who took office during FY 2001.

The Committee on Consumer and Regulatory Affairs held a total of 4 hearings on the FY2004 Budget Request, including the FY 2004 to FY 2008 Capital Spending Plan and the FY2004 Budget Support Act, as well as the Spending Plan for FY 2003 and oversight of the performance of the agencies under its jurisdiction.

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2. Witness list and testimony from February 13, 2003, Performance Oversight hearing.
3. Witness list and testimony from March 21, 2003, FY 2004 Budget Request hearing.
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Appendix B

1. Written questions to agencies on oversight over performance and FY 2004 Budget and spending plan and responses.
2. Councilmember Chavous' list of vacant and abandoned buildings in Ward 7, submitted for inclusion at the Committee's mark up on April 15, 2003.

II. SUMMARY TABLES.

1. Department of Consumer and Regulatory Affairs

Agency Operating Budget FY 2002 to FY 2004 (Dollars in Thousands)

Object Class	FY 2002 Actuals	FY 2003 Budget	Mayor's FY 2004 Proposed	CRA Cmte. Proposed FY 2004	Variance
Subtotal for Personal Services	18,216	19,831	20,920	20,920	0
Subtotal for Non-Personal Services	11,692	8,730	8,616	10,011	1,395
Total Expenditures	29,908	28,561	29,536	30,931	1,395
Intra-District	0	0	1	1	0
Local FTEs	313	336	314	332	18
Federal FTEs	0	0	0	0	0
Other FTEs	3	33	69	53	-16
Total FTEs	316	369	384	386	2

SPECIAL PURPOSE (O-TYPE) REVENUE BUDGET **REVISED MAY 2003 CERTIFICATION**

FY 2004 Certification for Mayor's Budget	FY 2004 Certification for Council Budget	Difference
5,727,441	7,123,350	1,395,909

Justification for Request:

USE: The additional revenue is requested to increase the non-personal services budget, specifically in the areas of contractual support and professional services. This represents an increase to Nuisance Abatement of \$995,909 and an increase to the Master Business License Fund of \$400,000.

AVAILABILITY: Revenue collections for both Nuisance Abatement and MBL will be sufficient to cover these budget increases.

The Committee accepts the enhancements in Special Purpose funding and the Budget Director for Economic Development's revisions to the FTE count.

2. Alcoholic Beverage Regulation Administration

Agency Operating Budget FY 2002 to FY 2004 (Dollars in Thousands)

Object Class	FY 2002 Actual	FY 2003 Budgeted	Mayor's FY 2004 Proposed	CRA Cmte. FY 2004 Proposed	Variance
Subtotal for Personal Services	1,364	1,882	2,063	2,313	250
Subtotal for Non personal Services	612	1,134	953	1,213	260
Total Expenditures	1,976	3,016	3,016	3,526	510
Other FTEs	21	36	36	42	6
Total FTEs	21	36	36	42	6

SPECIAL PURPOSE (O-TYPE) REVENUE BUDGET **REVISED MAY 2003 CERTIFICATION**

FY 2004 Certification for
Mayor's Budget
3016000

FY 2004 Certification for
Council Budget
3,526,300

Difference
510,300

Justification for Request:

Additional budget authority was requested to compliment current FTE level of 36, an additional 6 FTE's may be hired in order to further enhance the operations of the agency in the Personal Services area. ABRA also needs to purchase a software package for tracking of agency programs and outcomes as well as potential costs to move the agency.

The Committee has accepted the increase in authority for FTEs.

USE: In the Personal and Non-personal services areas of the budget, looking to further fulfill the mission of this start-up agency that has thus far had a very successful impact.

3. Department of Insurance and Securities Regulation

Agency Operating Budget FY 2002 to FY 2004 (Dollars in Thousands)

Object Class	FY 2002 Actual	FY 2003 Budgeted	Mayor's FY 2004 Proposed	CRA Cmte. FY 2004 Proposed	Variance
Subtotal for Personal Services	6,415	7,495	7,792	8,028	236
Subtotal for Non personal Services	1,931	2,272	1,933	2,217	284
Total Expenditures	8,346	9,767	9,725	10,245	520
Other FTEs	91	103	103	107	4
Total FTEs	91	103	103	107	4

SPECIAL PURPOSE (O-TYPE) REVENUE BUDGET **REVISED MAY 2003 CERTIFICATION**

FY 2004 Certification for
Mayor's Budget
9,725,424

FY 2004 Certification for
Council Budget
10,244,456

Difference
519,032

Justification for Request:

USE: Part of the increase of \$368,428 is needed to fund 4 additional FTE'S and other Non-Personal Services expenditures. Two of these positions are needed in the licensing division to implement the recently acquired SBS system, which will process licenses this year for 31,000 resident and non-resident procedures, 89,000 insurance company producer appointments, and 1,300 insurance providers. The other 2 are needed to handle the additional complaints that we are receiving in the Department. The balance of the increase, \$150,604, is for negotiated cost of living increases for union employees and step increases for all employees.

The Committee accepts the enhancement of 4 FTEs as well as the rest of the enhancements.

4. Department of Banking and Financial Institutions

Agency Operating Budget FY 2002 to FY 2004 (Dollars in Thousands)

Object Class	FY 2002 Actual	FY 2003 Budgeted	Mayor's FY 2004 Proposed	CRA Cmte. FY 2004 Proposed ¹	Variance
Subtotal for Personal Services	1,348	1,712	1,835	1,835	0
Subtotal for Non personal Services	3,030	724	611	611	0
Total Expenditures	4,378	2,437	2,446	2,446	0
Other FTEs	22	27	27	25	2
Total FTEs	22	27	27	25	2

SPECIAL PURPOSE (O-TYPE) REVENUE BUDGET **REVISED MAY 2003 CERTIFICATION**

FY 2004 Certification for Mayor's Budget	FY 2004 Certification for Council Budget	Difference
2446131	22,350,824*	1,990,469

¹ The Committee initially recommended an FY 2004 operating budget of \$1.5 million and 16.5 FTEs, which represented a cut of \$946,000 and 10.8 FTEs from the Mayor's proposed FY 2004 budget. The Committee recommended this cut based on the testimony received at the Budget hearing from the cluster CFO as to the slow pace of the Department's collection of revenue as well as its historic low collection of revenue, despite its revenue projection. The cut was recommended to avoid letting the Department create a deficit situation. At the April 15, 2003 Committee markup, a motion was made by Councilmember Brazil to return DBFI's FY 2004 budget authority to that proposed by the Mayor of \$2.4 million and 27 FTEs. The motion passed. Subsequently, Councilmember Catania made a motion to lower DBFI's request for 27 FTEs and approve only up to 25 FTEs. That motion also passed. As a result, the Committee's report reflects approval of a FY 2004 budget for DBFI of \$2.4 million and 25 FTEs.

Justification for Request:

The Department of Banking and Financial Institutions (DBFI) has received a federal payment of \$13,000,000 for Credit Enhancement to Charter Schools (subject to a Federal rescission of .065%) and an additional \$5,000,000 for a Direct Loan Fund to Charter Schools. A carryover amount of \$1,433,500 from FY 2002 for a previous Credit Enhancement payment received in FY 2001 was also requested to make available for use as well.

The Committee would not accept these enhancements to revenue because this money represents a pass-through and is not part of DBFI's operating budget. The Committee initially proposed limiting this agency's budget to no more than \$1.5 million, given its track record in the collection of revenues. In addition, the Committee further proposed holding DBFI to a 40% level of its current budget as a precaution to avoid getting into a deficit situation. At the April 15, 2003 Committee markup, a motion was made by Councilmember Brazil to approve a budget for DBFI that was originally proposed by the Mayor which would provide budget authority of \$2.4 million and 27 FTEs. The motion passed. Councilmember Catania then made a motion to cut approval of DBFI's FTE limit by 2, from 27 FTEs to only 25 FTEs. That motion also passed. Thus, the Committee recommendation is for a FY 2004 budget of \$2.4 million and 25 FTEs.

III. Department of Consumer and Regulatory Affairs

1. *Agency Overview* – DCRA was established by Reorganization Plan No. 1 of 1983 to consolidate various government regulatory and consumer-protection functions into one entity. Since its establishment, DCRA has been charged with regulating most business activities, construction and construction safety, building code enforcement and development, and the licensing and regulation of most occupations and professions in the District of Columbia. In 1997 functions related to insurance and securities regulation were reorganized and transferred into a separate Department of Insurance and Securities Regulation. In 1998 all services and functions related to health and environmental regulation were transferred to the D.C. Department of Health, although DCRA remains the lead agency in regulating enforcement and compliance monitoring activities for businesses such as solid waste facilities which have environmental implications and the coordination of the review of projects under the District's Environmental Policy Act. Furthermore, health-related professions are licensed and regulated by the Department of Health.

In 2000, the historic preservation division was transferred, together with personnel, to the Office of Planning. A new Alcoholic Beverage Regulatory Administration agency, or "ABRA," was formed in 2001 when the law went into effect that enacts Title 25 of the D.C. Code and that both formed this new regulatory agency and revised the District's Alcoholic Beverage Control law. Also, in 2001 functions related to the regulation of mortgage brokers and lenders were transferred to the Department of Banking and Financial Institutions. The FY 2002 Budget Support Act of 2001 contained a title regarding Consumer Credit and Money Lender Reorganization that transferred the regulation of businesses loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District of Columbia, from DCRA to DBFI.

In the budget proposed by the Mayor for FY 2004 some other changes are suggested, including the transfer of the Educational Licensure Commission from DCRA to the State Education Office and the abolition of the Rental Housing Commission with those appeals going directly to the courts.

Department of Consumer and Regulatory Affairs

Agency Operating Budget FY 2002 to FY 2004 (Dollars in Thousands)

Object Class	FY 2002 Actuals	FY 2003 Budget	Mayor's FY 2004 Proposed	CRA Cmte. Proposed FY 2004	Variance
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Total Expenditures	29,908	28,561	29,536	30,931	1,395
Intra-District	0	0	1	1	0
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Other FTEs	3	33	69	53	-16
Total FTEs	316	369	384	386	0

FY 2004 Budget Analyses

The Department proposes to spend \$29,536,000 in FY 2004, an increase of \$974,771 or 3.4% from the FY 2003 approved budget of \$28,561,229. Of this budget, \$20,920,000 is for Personal Services, an increase of \$1,089,000 from the FY 2003 approved budget, and \$8,616,000 is for Nonpersonal Services, a decrease of \$114,000 from the FY 2003 approved budget. The proposed FY 2004 budget presented by the Budget Office calls for 384 full-time equivalents ("FTEs") – an increase of 15 FTEs or 4.1% from the approved FY 2003 approved level.

Subsequent to the agency's presentation of its budget, the Budget Director for the Economic Development and Regulation cluster informed the Committee of a problem with the numbers of FTEs presented for DCRA's budget. She indicated in an email dated April 10, 2003, that:

"Please note that the Full Time Equivalent count for DCRA that was submitted during the Budget process in the form of the "Budget Load" was flawed, and is therefore erroneously showing an inflated "O-Type" FTE count by 16 (these FTEs should be in Local funds). Furthermore, it appears as if there was a cut of 2 FTEs associated with a gap-closing initiative proposed to the Mayor that was not accepted, and the budget was restored. However, the 2 FTEs were accidentally cut out of the budget, and not restored to the FTE count when the budget was. The true FTE count should be as follows:

Intra-District	1
Local	332
O-Type	<u>53</u>
Total	386

Since the budget is already in the consensus process, it will require Committee mark-up to ensure that the FTE numbers are changed. Please note that this is simply an FTE number error, and has **no impact on the budget.**"

The Committee has accepted these numbers from the Budget Director for DCRA's FTE count.

At the March 21, 2003, FY 2004 Budget Hearing, the Director of DCRA, David Clark, indicated that DCRA's proposed FY 2004 budget is \$23,717,069 in local funds, representing a decrease of \$887,708 from the FY 2003 approved budget of \$24,604,777. The proposed budget (prior to a subsequent change in the certified amounts) for "O-type" funds is \$5,727,441, representing an increase of \$42,786 from the FY 2003 current budget of \$5,684,655. Mr. Clark testified that this is a result of DCRA's approved "O-type" budget of \$3,456,452 plus the recent Congressionally approved budget increase of \$2,228,203.

Subsequent to testimony being taken, a new certification of "O-type" revenue was presented to the Committee by the Chief Financial Officer which will be formally certified in late May. The new "O-type" revenue figures show that DCRA would have \$7,123,350, an increase of \$1,395,000 from the amount budgeted in the Mayor's Budget book. The Committee has accepted this new funding and the enhancement of \$1,395,000 has been placed in the NPS line.

This represents 2 enhancements to operations at DCRA, one to business licensing and the other to nuisance abatement. The main enhancement is to the ongoing operations of the Nuisance Abatement program at the agency, which involve using a list of approved contractors to conduct actual abatement activities (cleaning and barricading properties) after violations are found by the Neighborhood Stabilization Officers and these are not abated by the property owners. Then, the District has the right to go on the property (after giving notice) and abate the violation and go after the property owner to get back its outlay of funds for abating the owner's violation. Any money thus collected is supposed to go back into the Special Purpose Nuisance Abatement Fund. Unfortunately, it can take a long time or become impossible to collect money from property owners who may have abandoned their property. Nonetheless, the nuisance needs to be abated. This enhanced revenue stream will be very helpful to the agency, at least for this year. There still remains a problem for the out years to keep the District's capability of staying on top of this issue. In prior years the District had utilized inmates at Lorton and the National Guard to assist the government in abatement activities. Neither of those options is currently available – Lorton has been closed and National Guard members are deployed overseas – thus, contractors must be used instead.

Local Funds – The total requested FY 2004 budget of \$29.5 million represents \$23,717,069 in local funding. The proposed budget contains expenses \$1.45 million less than the baseline for FY 2004 and is \$887,708 less than the FY 2003 approved (in October 2002) budget level, which represents gap adjustments, transfers, and other NPS savings. According to the budget book, there are 314 FTEs funded by Local sources, representing a decrease of 22 from FY 2003. As indicated above, the Budget Director for the Economic Development cluster has indicated that 332 FTEs are paid for by Local funds, which appears to be a decrease of 4 from FY 2003 instead.

Significant changes in the agency's budget from the FY 2003 approved budget to FY 2004 include:

- 1) An increase of \$564,406 to reflect fixed cost estimates provided by the Office of Finance and Resource Management.
- 2) A increase of \$213,764 in personal services for salary adjustments and step increases. This amount was offset by a reduction of \$213,764 in nonpersonal services.
- 3) A decrease of \$180,000 and 2 FTEs representing the transfer of the Educational Licensure Commission to the State Education Office.

- 4) A decrease of \$1,112,467 in personal services reflecting gap-closing measures for FY 2004. Included is the deletion of the Rental Housing Commission at a cost of \$225,460 and 4 FTEs from DCRA. In addition, 2 FTEs were reduced from the Agency Management Program, according to the Budget book.
- 5) A decrease of \$159,647 in nonpersonal services reflecting gap-closing measures for FY 2004.

Special Purpose Revenue Funds – The Mayor’s Budget book at first indicated that DCRA’s FY 2004 budget for Special Purpose or “O-type” funds is \$5,727,441, which represents an increase of \$2,270,989 from the FY 2003 approved budget of \$3,456,452. According to the Budget book, there are 69 FTEs funded by Special Purpose sources, representing an increase of 36 over FY 2003.

However, the Committee has been provided with a revised Special Purpose funds budget for FY 2004 of \$7,123,350, representing additional funds that we have been informed by the CFO will be formally certified in late May along with all other revenues, but which were not certified at the time of the Mayor’s budget release. This represent a difference of \$1,395,909. The Committee will accept the new certification and budget request of \$7,123,350 (*See* the chart below). Moreover, according to the Budget Director for the Economic Development cluster, there are 53 FTEs funded by Special Purpose sources, representing an increase of 30 over FY 2003. It is the Committee’s understanding that at least 36 of these total “O-type” funded FTEs are staffing the Master Business License function.

Special Purpose (O-TYPE) Revenue (Revised May 2003 CFO Certification)

Agency: Department of Consumer and Regulatory Affairs

FY 2004 Certification for Mayor’s Budget	FY 2004 Certification for Council Budget	Difference
\$5,727,441	\$7,123,350	\$1,395,909

Justification for Request:

Use: The additional revenue is requested to increase the non-personal services budget, specifically in the areas of contractual support and professional services. This represents an increase to the Nuisance Abatement fund of \$995,909 and an increase to the Master Business License Fund of \$400,000.

Availability: According to the CFO’s certification, revenue collections for both Nuisance Abatement and the Master Business License funds will be sufficient to cover these budget increases.

DCRA’s Director David Clark noted, at the Committee’s March 21st budget hearing, that the agency is dependent on the collection of license fees to fund its “O-type” revolving accounts for its occupational and professional licensing program as well as for the Master Business License and Registration Program. While the Department continues to move forward with implementation of the latter program, Mr. Clark raised the concern of not knowing what the future holds for this program.² The concern is great since 36 staff positions were converted to the “O-type” accounts as part of the FY

² The Council is in the midst of consideration of legislation to amend the law pertaining to the Master Business License program to eliminate the Master Business License and to create a Master Business Registration program and fund, into which the MBL fund assets would go, once the legislation is passed.

2003 \$323 million budget gap closing. This function and the need for the FTEs to staff it would remain even if the MBL program and its fund did not.

Another important Special Purpose fund about which more will be said later in this report is the Nuisance Abatement fund. Testimony was taken as to what is in this fund and where new funding would come from to fund all the activities supported by the Nuisance Abatement fund.

Much of the to-be formally certified “O-type” revenue would be used to enhance the ongoing operations of the Nuisance Abatement program at the agency, which involve using a list of approved contractors to conduct actual abatement activities (cleaning and barricading properties) after violations are found by the Neighborhood Stabilization Officers and these are not abated by the property owners. This is discussed above. This enhanced revenue stream will be very helpful to the agency, at least for this year. Nevertheless, there still remains a problem for the out-years to keep the District capable of staying on top of this issue – the revolving fund continuously needs to be replenished. There is also a problem to the extent that any of the FTE vacancies that DCRA will not be allowed to fill exist in the NSO program, as these are paid for with local funds. **The Committee requests that DCRA do everything in its power now to lose any inspectors or NSO positions in the year ahead. The agency needs to keep the Committee informed of its plans with respect to funding this operation in future and its ability to collect against liens.**

At the FY 2004 Budget Hearing on March 21, 2003, the Committee asked for and received more detailed information about the amounts in each of these Special Purpose Revenue Funds. It should be noted that Special Purpose fund revenue is non-lapsing and carries over. The report indicated:

FY 2004 Certified Revenue for DCRA by Fund

<u>Fund</u>	<u>Amount Certified</u>	<u>FTEs by Fund Source</u>
Condo Conversion	\$ 145,000	0
Nuisance Abatement	\$ 2,800,000	8
Site Evaluation	\$ 10,000	--
Real Estate Guarantee and Education	\$ 329,500	2
Real Estate Appraisal Fee	\$ 36,000	--
Professional Licensing (OPLA)	\$ 600,000	7
Special Events	\$ 20,000	0
Boxing Commission	\$ 50,000	0
Master License Fee	\$ 3,100,000	36
Board of Engineers	\$ 32,850	0
Total	<u>\$ 7,123,350</u>	

Changes proposed from the FY 2003 approved budget for Special Purposes Funds in FY 2004 include:

- 1) An increase of \$1,102,843 which includes a reallocation of 8 FTEs previously funded with Local funds. This reallocation was part of the \$323 million FY 2003 budget reduction done in October 2002.
- 2) A reallocation of \$1,168,146 from Local Funds to reflect an agency reorganization because of the incorporation of Performance Based Budgeting (“PBB”).

In a meeting with staff from the CFO, the Committee explored the enhancements being sought by DCRA by the ability of using this newly certified additional “O-type” funding.

Intra-District Funds – DCRA’s proposed FY 2004 budget for intra-District funds is \$91,533, which represents a decrease of \$408,467 from the FY 2003 approved budget of \$500,000. There is one FTE funded by Intra-District sources, representing an increase of one over FY 2003. This change from the FY 2003 approved budget is due to a decrease of \$408,467 in funding from Metropolitan Police Department Justice Grants.

Capital Budget – The Mayor’s FY 2004 capital budget request for DCRA funds only 2 of 3 requested capital projects: the establishment of a real property database and digitization of surveyor’s plats.

Nuisance Abatement funding – The Mayor denied DCRA’s own request for enhanced funding for nuisance abatement, but did include capital funding under the Deputy Mayor for Economic Development and Planning for DCRA’s use. When the Deputy Mayor for Economic Development and Planning appeared before the Committee on Economic Development at that Committee’s FY 2004 Budget Hearing, he indicated that there was \$4 million in capital funding in FY 2004 for DCRA’s use for nuisance abatement along with what is currently left over in the Nuisance Abatement fund, or approximately \$2.8 million.

At the Committee’s March 21, 2003, FY 2004 Budget hearing, the Director of DCRA disclosed that the agency had requested \$8.6 million in capital funds for abatement of nuisance properties, but that the Mayor did not approve this request. It remains the belief of the Committee that having adequate resources as a result of proper capital funding over the last few years was a major reason for the agency’s success in effectively addressing nuisance properties. Without this additional funding source, the agency would be forced to revert to its pre-1999 strategy of only undertaking the most basic repairs of substandard conditions that have plagued our neighborhoods and served as a catalyst for crime and further deterioration.

Mr. Clark noted that the Deputy Mayor for Planning and Economic Development, Eric Price, is equally concerned about capital funding for the abatement of nuisance properties. Mr. Price has sought funds to reallocate within the Economic Development cluster in order to identify as much funding as possible to permit continued support for affordable and safe housing initiatives required by District law. To that end, the Committee has been informed that sufficient funds are available to fund this vital program at levels appropriate for the task of revitalizing the District at-risk neighborhoods. According to the CFO’s projections, the current account balance for nuisance abatement is \$2.8 million. The capital budget would add an additional \$4 million to that carried over amount. This will be adequate for FY 2004, but will present budgeting difficulties for future years.

The Committee on Consumer and Regulatory Affairs happily recognizes the new \$4 million, but has some concerns about the Mayor’s long-range planning for funding this ongoing need. DCRA has indicated to the CFO that it has the capacity to use at least \$6.4 million each year on these activities; thus, the Nuisance Abatement fund would be adequate for operations in FY 2004. It is a one-year fix, however. The fund is a revolving fund, and while DCRA has improved its ability and capacity to collect on liens it has placed on violators, collecting the full amount due is arduous and not always very successful against deadbeat property owners. Moreover, vacant property registrations under a new law that requires these to be filed have been coming in more

slowly than anticipated. The fees from these registrations are to go into the Nuisance Abatement fund, but for the present, it is more likely that regular infusions of other new funding will continue to be required. The Committee directs that the agency and Deputy Mayor continue to watch the need for funding in the Nuisance Abatement fund and plan for FY 2005 and beyond.

Real Property database – The Real Property database project, originally approved in 2001, has a total multi-year budget of \$7,750,000, with \$2,750,000 budgeted for FY 2004. The agency will receive this funding to establish a state-of-the-art Real Property database. This database will allow the District to electronically share and combine Real Property data across agencies and programs, between citizens and with external entities. This is expected to improve customer service improvement by enhancing record accuracy and retrieval speed. By doing so, it is expected to aid in the identification and validation of resident information, promote economic development, and help sustain current neighborhoods. It is also expected to standardize and coordinate real property information to provide land, structural and mineral data. **The Committee approves the proposed capital project to establish a real property database. As it did last year, it directs the Department to ensure that in preparing this database that attention is paid to truly standardizing the method by which the District government, across all Departments, refers to a particular address to avoid the inconsistencies that occur at present. The Committee directs the agency in developing its plan for this database to continue to work with the Chief Technology Officer, the Office of Tax and Revenue, and other executive offices to ensure that a systematic check is regularly made to prevent the misuse of tax exemptions and reductions meant for qualified taxpayers but which could inadvertently be provided to owners of real property (and taxpayers) who no longer qualify for the exemption or reduction when the property is vacant.**

In addition, the Committee urges the agency to ensure that development of this real property database takes into account the needs for record keeping improvements in both the Housing Regulation Administration, particularly the Rent Administrator's office, and the Building and Land Administration, particularly the Office of the Zoning Administrator. These were both areas that require improvement, according to prior public witness testimony. The Committee approves this capital budget project.

Digitization of Surveyor's plats maps – The other capital project funded in the Mayor's DCRA capital budget is the digitization of the surveyor's plats maps and field survey records. The project is budgeted at \$1,928,000 over a 2-year development schedule with an initial start-up budget of \$1,174,000 for FY 2004. For the project, a computerized catalog with searching and reporting capabilities will be developed. It is expected to have printing capabilities for full size images from each survey document duplicated for archival back-up storage.

FTEs & vacancies – Prior to its Performance Oversight Hearing in February 2003, the Committee asked about the extent to which DCRA had been able to complete its realignment of the agency in the prior fiscal year. DCRA informed the Committee that the Mayor had approved the realignment proposal in April 2002. Nonetheless, no sooner had implementation begun, than a budget freeze was imposed, and all personnel actions were halted. The agency was able to make a few critical hires in the summer of 2002, but many of the functions for which we had intended to hire FTE's were being performed by contractual employees. Once the budget office allowed them to start processing personnel actions in late November 2002, DCRA moved ahead on realigning positions and promotions. The agency also brought on 39 contractors as employees in the month of December. They reported that they currently have 35 vacancies, but will fill 5 of those by February 10, 2003.

The Director of DCRA, Mr. David Clark, at the Committee's March 21st budget hearing, testified that a major portion of the agency's FY 2004 budget reduction – \$889,000 – would be realized through the imposition of a hiring freeze, while the remainder will be achieved through the proposed abolishment of the functions of the Rental Housing Commission and other reductions in telecommunications, travel, and fleet maintenance. Out of DCRA's then current 27 locally funded and vacant positions, the agency's FY 2004 budget will only allow the filling of 6 positions.

The Committee requested, and DCRA has provided, a list of vacancies at the agency. Many of these are in critical Building and Land positions, several are in the Neighborhood Stabilization Program (NSP), and others are in investigations, compliance, and enforcement. None of these positions should be lost, but unless money is found, they will be. These are key functions at this agency – development and enforcement activities depend on them. **The Committee requests the agency to work with the rest of the Executive to determine how to preserve these positions in light of the falling revenue stream. In particular, the NSP and BLRA organizations need to be analyzed to see how to better manage these crucial functions.** More will be said about this later in this report.

The 6 positions which DCRA would be able to fill include:

- 1) A Management Program Specialist – This position is needed to provide support to the agency's Human Resources function, made more critical due to the recent departure of the agency's Human Resources Director and the elimination of that position.
- 2) A Supervisory Housing Inspector and Program Assistant – This position is needed to manage the agency's Neighborhood Stabilization Program. Presently, the Program Manager is performing 3 roles: (1) providing overall management for the NSP program; (2) serving as the Branch Chief responsible for planning and monitoring the NSP program for half of the city; and (3) serving as Supervisor responsible for day to day work assignments, reviewing inspection reports, and other duties of a line manager.
- 3 - Three key Building and Land Regulation Administration positions: BLRA Administrator, Chief
6) Building Inspector, and Technical Plan Review Manager positions.³ Filling positions in this Administration is critical, given the serious public health and safety concerns, like falling roofs and collapsing structures, not to mention acts of terrorism.

The Committee is very concerned about all of these and the other vacancies at DCRA, especially positions like inspectors and investigators. We do not want to lost the momentum of the last few years in improving compliance and enforcement activities.

By and large, the Committee is pleased with DCRA's plans for staffing arrangements. The agency has been very responsive to the Committee's prior comments for DCRA's plans for responsible growth and career development of its employees. Most notably, the growth in this agency represents – as it should – more workers with direct contact with the public, rather than simply adding layers of management. This is a very good sign for District residents and businesses, who, for years, have complained of a lack of a service mentality at the agency. Nonetheless, there have been some

³ While a fourth position was not mentioned at the hearing, the Committee is aware that the Zoning Administrator has also tendered his resignation. This too is a critical position to fill for DCRA.

difficulties within certain parts of the Department to keep pace with the demand.

The Committee recommends that the Council find monies in the overall budget for FY 2004 to increase local funds for DCRA by \$800,000, so that the Department will not have a reduction in local funds budget next year. These funds would fill vacancies and meet the other needs identified in the report.⁴

Summary of DCRA's Programs and Activities

Performance based Budgeting – DCRA will be moving toward Performance Based Budgeting, which focuses on programs and performance measures and goals. At the Committee's February 2003 Performance Oversight Hearing, DCRA's Director, David Clark, testified that during FY 2002 and thus far, in FY 2003, the Department had met or exceeded all of its scorecard performance measures and goals.

DCRA operates the following programs: (1) Business and Professional Licensing, (2) Building and Land Regulation, (3) Housing Regulation, (4) Neighborhood Stabilization Program, (5) the Office of Adjudication, and (6) the Office of Compliance. While the Committee will discuss some programs in this report, the omission of a particular program in the detailed discussion should not be taken to mean that it lacks importance, or is thereby failing or succeeding in its mission. The thrust of the review is upon those parts of DCRA's operation that the public has commented on during this budget process and at other times in the current (and prior) fiscal years.

The agency will be moving toward performance based budgeting in the FY 2004 budget. During the interim, DCRA has continued to improve its ability to quantify "outcomes" while also focusing on areas of concern, such as zoning, building inspections, neighborhood stabilization, and the Rent Administrator's office. The Committee is pleased that its guidance has been instrumental in moving the agency forward so it is better situated strategically to accomplish its mission without additional cost to taxpayers. Notwithstanding, the Committee remains concerned about keeping a close focus on some aspects of DCRA's programs, particularly where those must also adjust to lowered revenue expectations and other events. **The Committee believes that added focus will be needed in the years to come on programs involving building and land permitting activities, rental and other housing concerns, nuisance property abatement activities and the management of vacant property, zoning administration issues, third- party inspections and review processes, and business licensing and registration operations.**

Building and Land Administration – Mr. Clark testified that despite the enormous construction activity and land development that has been occurring in the District, the agency has been able to keep pace with the review, approval, and issuance of building permits. He reported to the Committee that during FY 2002, 97.1% of the complex building plan applications submitted to DCRA were reviewed and processed within 30 days. This exceeded DCRA's own goal of 95%. Mr. Clark indicated that for FY 2003, DCRA continues to exceed the goal by having reviewed, and processed, 98.8% of all complex building plan applications submitted within 30 days.

The Department also exceeded its goal for over-the-counter (walk-in) permits. Mr. Clark reported that

⁴ This language was included in the Committee's report at Councilmember Mendelson's request which was accepted by the Committee Chair at the April 15, 2003 budget markup.

in FY 2002, the Department was able to reduce its average processing time for over-the-counter permits from the 58 minutes reported in FY 2001 to 31 minutes. Thus far in FY 2003, DCRA is maintaining this average.

Mr. Clark suggested that for the remainder of FY 2003, the agency planned to build on this foundation and to improve customer services. The Director of DCRA shared information that the agency has recently purchased 3 former Postal Service vans and equipped them with personnel and computer hookups to the agency's database so that DCRA has mobile capability and can go out into the neighborhoods directly. Specifically, he indicated that the agency planned to expand the use of the mobile vans to help citizens obtain business licenses, get inspections, and receive information on how to apply for permits. **The Committee is very pleased with the creativity shown in the development of these vans to bring the agency out into the community.**

Mr. Clark shared that DCRA would be adopting a new performance measure for issuing building permits by ensuring that customers with non-complex building permit applications would be processed in 7 working days. Testimony has been received by the Committee that indicates that this will be a welcome goal to achieve.

He also spoke to expanding DCRA's methods to address quality of life issues by sharing his plan to form an "illegal construction program" in the next few months to proactively find and stop illegal construction that occurs throughout the city. The Committee is aware that this idea sprang from suggestions from a resident who operates a construction business and who has long suggested this kind of enforcement activity to the government. The Committee agrees that this is a welcome plan.

Finally, at the February hearing, Mr. Clark indicated that DCRA had a Zoning Administrator, a new Zoning technician, and was looking for a manager for the Technical Plans Review Division, together with candidates to staff the permit "war room", all in an effort to manage the Building and Land Administration's functions. He suggested that the realignment in BLRA's organization would help to improve performance and accountability among BLRA managers and staff. **The Committee would like a full report on whatever changes are being made to this planned realignment, given the recent resignation of the Zoning Administrator and the hiring freeze at the agency.**

Despite some wonderful results at DCRA, the Committee remains very concerned about the operations of BLRA. The Committee received several witness' testimony and statements from other members of the public – all of whom raised issues which the Committee was already concerned about. And now the need to keep the pace that DCRA has set in light of the vacancies in this part of the Department make both the Zoning Administrator and Permitting operations in this Administration a matter of concern.

With regard to DCRA's permitting processes, Jonathan Strong of the Brandywine Tenants Association, testified that DCRA gives insufficient scrutiny to applications submitted to it and totally fails to take enforcement against those who flout the law by not applying for permits or giving misinformation on applications when they apply for permits. Mr. Strong speculated that the District loses significant revenue for its short-coming in this regard. Others have suggested that the District charges a lot as compared to surrounding jurisdictions. **The Committee would appreciate an analysis being conducted by the new BLRA Administrator by the end of FY 2003 of a comparison of permit fees in the District with those of surrounding counties. The Committee**

also requests a plan from the new Administrator in the same report for development of staff to address the issue Mr Strong raises.

James Smith, Mr. Permit, provided extensive testimony regarding what he referred to as the inefficient organization of the permitting office. He said that it was impossible to acquire all the necessary forms at once or to receive effective instruction as to how to properly complete the necessary forms beforehand.

Gary Stack of the Irish Channel Restaurant testified that he found “DCRA’s processes so confusing that DCRA employees...provide incorrect information to customers.” He stated that each time he went to the agency to find out what he needed to establish a sidewalk café, he got a different story. Further, he stated that after the permits had been approved, it still took several months before he received the paper permits. **The Committee requests that the new BLRA Administrator conduct a top to bottom analysis by the start of FY 2004 to address these issues and share his plan in a report to this Committee.**

Robert Pohlman, of the Coalition for Nonprofit Housing and Economic Development, in his testimony stressed that DCRA was a critical agency when it comes to production and preservation of affordable housing. He stated that it is critical that the Building and Land Regulation Administration continue to reduce processing time for building permits and inspection. Mr. Pohlman noted the DCRA’s Ambassador Program serves a very useful function, particularly for small developers of affordable housing in the District. **The Committee agrees that keeping processing time down for both permitting and inspections is critical to allowing the District to maintain its economic growth. Also, the Committee wants to particularly commend the Development Ambassador Program and agrees with the witnesses who have praised this program over the years. The Committee would like to see this program expanded.**

Robert Lynch of Manna, a not-for-profit affordable housing developer, testified that DCRA’s recently instituted reservation system in which developers must request an inspection 7 days in advance is not practicable as not many developers can accurately predict 7 days in advance when a particular phase of a construction project will be ready for inspection and be assured that they will have all the needed parties available for a particular inspection date that far in advance – the requirement does not realistically comport with how construction is done. Mr. Lynch also testified that DCRA’s third-party inspection system forces any developers who choose to use it to pay twice for inspections, as the initial cost of permitting includes the expected cost of any required inspections. This is a truly Hobson’s choice for not-for-profit developers. He stated that the 3d party process can add an additional \$3,000 - \$4,000 to the cost of a unit, which can mean the difference between profit and loss in the case of producing affordable housing. **The Committee directs the agency to determine how to more fairly charge for permits to allow developers – particularly smaller and not-for-profit developers and individuals – to benefit from the ability to use 3d party inspection without this kind of penalty. Also, the Committee directs the BLRA to determine how it can better and more flexibly adjust its need to schedule inspectors’ time against the realistic demands of construction.**

The Committee also received some written comments that might be called encouraging from the District of Columbia Building Industry Association (DCBIA). Mr. William Alsup wrote on behalf of DCBIA that DCBIA members report that the building plan review process is becoming more customer friendly with one-day and 30-day turnaround schedules being met with some predictability. He also

stated additional progress might be made by establishing a 7-day permit turnaround category for projects of an intermediate size which he stated were currently consigned to a full 30-day review. The Director indicated that this is planned.

Mr. Alsup also indicated that on-site inspections had improved. Mr. Alsup attributed this improvement to third-party inspection procedures and noted that these can affect small developer's costs negatively. He also expressed concern that the senior ranks of experienced staff may be dwindling and that the current budget does not provide adequate resources and incentives to enable them to do their jobs well. **The Committee concurs with both the praise and criticism in the DCBIA's remarks. In particular, given the current level of vacancies in BLRA, the agency will be hard pressed to continue to improve in this area without a game plan. The Committee requests the agency to report back upon its adopting the 7-day permit turnaround category the DCBIA has suggested for intermediate projects. We have already asked the agency to address the negative impact on the smaller and not-for-profit builders. Finally, the Committee directs the Director and the BLRA Administrator to share their plans for this area of the agency by FY 2003's end – how the vacancies will be dealt with, training that will be provided, and how the functions in BLRA will be improved.**

The Committee received an additional statement on April 11, 2003, from Charles Barber, Vice President, D.C. Building Industry Association regarding the Zoning Administrator's office in DCRA. He expressed D.C. Building Association's deep concern over the status of the Office of the Zoning Administrator within DCRA. He noted that the Zoning Administrator's position is critical in DCRA's permit and land use regulation. The Zoning Administrator must ultimately sign off on all zoning reviews, and his approval or disapproval can significantly affect the timing and even feasibility of a construction project in the District of Columbia. The DCBIA noted with alarm that Bob Kelly – who has held the Zoning Administrator position for less than one year – has recently resigned. His absence will have a severe impact on the pace of DCRA's permitting process to the detriment of the many construction projects now awaiting action by BLRA. While DCBIA understands that current staff may fill in on an interim basis, no one now available has the knowledge, skill, and time to do an effective job. This presents a crisis for planned projects, with potential setbacks for economic development in the District.

Moreover, Mr. Barber shared that DCRA has had several Zoning Administrators in the past few years. DCBIA believes that the job should be closely examined to improve working conditions which evidently contribute to the high rate of turnover. In DCBIA's judgment, salary certainly plays a role, and they have urged this Committee to seriously consider increasing the budget for a higher salary for this pivotal position. They also suggest that the DCRA Director should examine non-monetary aspects of the job that may contribute to stressful conditions that result in frequent resignations. In the interim, DCBIA recommends that DCRA be permitted to out-source some of the Zoning Administrator's functions to individuals who formerly worked in that Office and are still knowledgeable and available. They remind the Committee that DCRA's review process is the gateway for economic development. If a key component in the gatekeeper's office is not functioning effectively, the flow of economic development is stymied and the entire City suffers.

Similar concerns were expressed to the Committee by Lindsley Williams, who is a Land Use, Planning and Zoning Consultant to the law firm of Holland & Knight LLP, but who voiced his concerns strictly on his own behalf as a tax paying citizen. Mr. Williams noted that over the past few years, the Mayor has sought and the Council has provided substantial new resources to the Office of

Planning and the Office of Zoning, reversing years of neglect and stagnation. Further, the Mayor had sought and the Council approved a reorganization that resulted in the transfer of historic preservation functions, including inspectors, from DCRA to the Office of Planning, and corresponding budgetary adjustments. Another change involved instructing the Office of Zoning to provide some compliance functions, yet stopping short of direct enforcement, which remains with DCRA.

Mr. Williams summarized that now have relatively strong planning and relatively sound zoning policy and relief systems in place. He believes that, while resources are not necessarily as generous as some would wish or urge, the Office of Planning and the Office of Zoning are keeping their heads above water and functioning. This is not the case with respect to the direct administration of zoning in its daily labors, in the context of review of plans and enforcement of requirements, as these functions remain understaffed and underfunded. Like DCBIA, Mr. Williams noted that while DCRA was able to recruit a Zoning Administrator, Robert Kelly, to the position last year, he announced his resignation, effective April 4. Another vacancy exists because another zoning staff member was called up for military service. This leaves a real question of how DCRA will be able to provide timely and responsive zoning analysis and enforcement with the staff remaining and what it will do with unfilled – which might be unfillable – vacancies.

Mr. Williams noted that, given the budgetary prospects, he would not recommend that more funding could be appropriated to fund this function, but he suggests that the Committee ask the Director what he anticipates the future to hold and how he has planned for the contingencies that are very likely to arise. The Committee has done this, both earlier and in this report. Mr. Williams suggests that, absent clear and appropriate answers to the Committee's questions in this regard and a clear plan, the investment the city has made to improve planning and zoning could unravel at DCRA. He also cautioned against simply raising fees as a means of generating revenues, as he believes that the District's permit fees are already substantially higher than those in surrounding jurisdictions and may already cover more than the total cost of BLRA in terms of staffing and support. **The Committee would refer the Director and BLRA Administrator to some the Committee's earlier comments and directives in this report and bear the citizen's comments in mind in preparing their replies.**

Housing Regulation Administration – The programs in this Administration involve compliance with the housing code of private housing stock, including the Neighborhood Stabilization Program and inspections, enforcement of the rental housing law, and enforcement of the laws pertaining to condominiums and sales conversions of rental properties.

In his testimony before the Committee, Mr. Clark indicated that the agency's performance in addressing the problems caused by vacant and dilapidated housing shows its tremendous efforts to improve overall operations and to contribute to the District's major goals like the Mayor's "Home Again" initiative. In FY 2002, DCRA cleaned and secured over 1,700 vacant structures, significantly exceeding its stated goal of 1,200. DCRA also demolished 419 substandard housing units. Thus far in FY 2003, the Department has cleaned and barricaded over 800 vacant structures, while demolishing 57 substandard housing units.

The Committee is pleased with the progress that this Department has made in the last 2 years in addressing nuisance properties. DCRA must persevere in working through these issues. The need for ongoing funding has already been addressed in this report. The Committee reminds the Mayor that if the pace of improvement is not maintained, the progress made thus far can be undone.

Neighborhood Stabilization Program – The Neighborhood Stabilization Program ("NSP") is responsible for targeting neighborhood clusters with inspectors to identify potential problems and to initiate solutions. The main focuses of this program are (1) to inspect and monitor all residential building within the city for code compliance, (2) to reduce the number of complaints for housing code violation inspections, (3) to coordinate more efficiently with related agencies and the Neighborhood Services Initiative to abate housing violations in persistent problem areas, and (4) to develop a calendar to attend regularly scheduled ANC and civic association meetings.

Although the Neighborhood Stabilization Program has exhibited tremendous improvement in responsiveness and customer service during the past 2 fiscal years, the need to continue to strengthen and improve this program exists. Despite the progress, there remains a considerable amount of distress on the part of citizens when they are unable to obtain sustained relief in their efforts to get irresponsible owners to abate violations of both vacant and abandoned, as well as occupied but run-down, properties.

While customer service is vastly improved at the agency, there are still instances in which residents and Council offices want more closure and results from this program. The Customer Service activities of the agency are not always as well served as they are intended to be if the housing inspection reports are not sufficiently informative or if inspectors are not as proactive in seeking abatement as they might be. The Director of the agency has made a significant investment in customer service, but there is always room for improvement. With the tremendous building boom that is occurring in the District, expectations on the part of current and new residents have risen considerably. At a time when complaints and requests for service are up, DCRA's personnel and nonpersonnel resources are being stretched to do more with less than in the long-distant past. **Hiring and training the full complement of NSOs is an important goal. The Chair of the Committee is most concerned about vacancies in the inspector ranks. As the budget is currently presented for this agency, there are not sufficient funds identified to fill all the vacancies at the agency. This Committee will be most eager for assistance in filling vacancies in the inspector and investigator positions.**

Also, there are new technologies which have provided more flexibility and productivity to DCRA. If the District is serious about "neighborhood revitalization," it has to devote the resources necessary to achieve this goal. **The Committee believes the Mayor needs to provide DCRA's staff the equipment, training, and personnel management necessary to complete their mission. The Committee believes that the current DCRA management agrees with this need and is taking appropriate steps to ensure sufficient personnel and nonpersonnel resources for deployment.**

The Committee has been pleased with the implementation of the Remote Access Property Inspection and Dispatch System ("RAPIDS") that has enabled DCRA to better utilize and manage its limited quantity of human resources. RAPIDS, which is deployed now, reflects a new high in technology. The system is a tool that allows DCRA management to better track and prioritize inspection assignments as well as obtain and store detailed information on residential properties, including name of owner or agent, address, lot and square, history of enforcement actions, and digital pictures. The remote, mobile RAPIDS terminals were designed to provide inspectors the capability to print violation notices in the field immediately, thus saving time and money. The information developed by using RAPIDS should also enable DCRA to develop a history of each property, establish and evaluate worker performance, and gather data, upon which to evaluate the quality of each inspection. The system should also allow DCRA finally to keep current, accurate statistics of the number of fines issued and their cumulative dollar value.

At present, NSOs are the main employees using the RAPIDS mobile workstations to access complaints that are filed with the agency, including information regarding property ownership; record violations while conducting inspections; create casework from violations observed in the field; and print violation notices to serve on property owners and agents while in the field. However, **RAPIDS can be expanded for the use of the Building and Land Administration as well in the future. The Committee believes this is a worthwhile investment and requests the agency to continue to provide quarterly written progress reports, starting at the beginning of the fiscal year 2004, as the agency moves forward with continued implementation and possible future expansion of this tool. The reports also should indicate how much training is being provided to inspectors, particularly in the nature of cross training.**

The Committee has been pleased with the agency's improvements in providing feedback to citizens and Council offices when a complaint has been handled. This appears to be mainly the result of the development of a professional customer service staff and a customer advocate at the agency. Moreover, a dedicated customer services staff to handle communications and intake frees up the NSOs to allow the NSOs to concentrate on handling the field tasks. Even though an inspection may have been performed, in the past a complainant may have received different levels of feedback. While a property may have remained vacant, no code violation may have been found. Or, even if violations were confirmed, the result simply began a long process that ensues between compliance officers and violators (re-inspections, requests for extensions, appeals, etc.), leading to the hearing process which is in the Office of Adjudication – and will be moving to the new Office of Administrative Hearings.

It was anticipated that once the Vacant Property Registration program began in earnest and with eliminating one of the boards of condemnation, some additional progress in compliance and enforcement activities would occur sooner in the process. However, testimony was taken from **Director Clark at the Committee's Budget Hearing in March that indicated that the agency was not getting the level of compliance with the new law creating a vacant property registration requirement that they wanted. DCRA may wish to recommend an increase in fines that they would be authorized to levy for noncompliance in order to obtain better compliance.** The purpose of the registration was to create a vacant property database to assist the city in its efforts to monitor its building stock. The fees from this registration are expected to go into the Nuisance Property Abatement fund for the purposes that fund is set up for. When there is insufficient compliance with the vacant property registration law, the result is less new funding for nuisance abatement. The subject of funding this function has already been discussed in the report.

In prior years, the Department's abatement efforts had been assisted by the District of Columbia National Guard as well as by Lorton inmates. Neither of those options are currently available, as Lorton has been closed and current military and national defense interests have reduced or eliminated the availability of the District's National Guard personnel. Consequently, contractors are used to do this work, for which funding is needed.

Testimony and comments concerning DCRA's abatement of nuisance property suggested a general frustration with the speed with which abatements occur and a perceived lack of public access to information once abatement has begun. However, this Committee believes that much of that general frustration could be alleviate through enhanced communication vehicles that allow the public to understand what DCRA's processes are and the legal remedies available to the agency in addressing nuisance properties. Another way in which this could be improved is for the agency to train supervisory inspection staff to review and improve the quality and timeliness of the NSO's reports.

Commissioner Cody Rice, ANC 6A03, submitted testimony attesting to this kind of need. He presented the example of a vacant, neglected, and unsecured house on 9th Street on Capitol Hill. The Commissioner noted that even after numerous conversations with DCRA staff members, beginning in November 2002, as of the February 2003 Performance Oversight hearing, he had not heard back from DCRA. Although the property has been inspected and DCRA has posted warnings and a notice of fine on the front door, the property remains unabated.

That said, it remains the sense of the Committee that ever more efficient abatement of nuisance properties and proactive enforcement of the housing and building codes should be a priority, including more effective use of NSOs, for the agency in FY 2004. The Committee requests that DCRA develop programs to specifically address the problem of vacant and abandoned buildings in Ward 7, and to work more closely with the Department of Public Works to clean up vacant lots.⁵

Rental Housing – The Inspections and Compliance division in the agency includes the Rent Administrator’s office. That office contains a Rent Administrator, a Scheduler, a Supervisory hearing examiner, 4 hearing examiners, and a program specialist. The Rent Administrator administers programs under the Rental Housing Act of 1985. This office serves as the repository for information regarding the amount of rent charged for residential rental property; receives and processes required documents for adjustments in rent ceilings (in the form of landlord petitions); resolves disputes between landlords and tenants, and where necessary, receives and distributes for legal action tenant petitions seeking redress for alleged infractions by a landlord.

The agency has been meeting regularly with both landlord and tenant groups. Mr. Clark testified in the Committee’s oversight hearing that DCRA plans to continue to focus on educating landlords and tenants and improving the administration of the Rental Housing Act.

The Committee Chair noted that she wanted the agency to explore how it could fund and manage a tenant advocate operation to assist tenants and tenant associations much earlier in the petition process than is now the case.

At the Committee’s budget hearing, Faith testified about rental properties, in part. She complained that some inspectors either have financial interests in the larger buildings or are friends with the owners. She complained that many owners are letting their properties fall apart, by letting the infrastructure decay and only doing cosmetic improvements when forced. She further complained that owners are being allowed to raise rents on apartments and garages and she asserted that owners should not be allowed to raise the rent when there are code violations in the unit. She wants a roll-back of rents and enforcement of rent control. The Chair of the Committee referred her to Ranelle Zapata, the Rent Administrator.

Abolition of the Rental Housing Commission – There has existed a Rental Housing Commission (RHC) at DCRA, which issues, amends, and rescinds rules and regulations for the administration of the law granting it legal authority, decides appeals from decisions of the Rent

⁵ Councilmember Kevin Chavous requested inclusion of this language at the April 15, 2003 Committee markup. The language was accepted by Chairperson Ambrose. In addition, Councilmember Chavous also provided a list of vacant and abandoned buildings included herein as attachment B-2.

Administrator, and certifies and publishes the annual adjustment of general applicability in the rent ceiling for rental units. The current Chair of the Rental Housing Commission is Ms. Ruth R. Banks, Esq. There are no vacancies on this 3-member Commission, but all of the current members' terms end in the Summer of 2003. The Commissioners are paid full time employees.

The Mayor's budget proposal for FY 2004 would abolish the RHC and permit appeals from the Rent Administrator's decisions to be taken directly to court. The initial draft language in the FY 2004 Budget Support Act of 2003 has all the rental housing cases going to the Superior Court *de novo*; however, new draft language has been shared with the Committee that would send cases to the District of Columbia Court of Appeals. The Committee outlines the legislation in the Budget Support Act section of this report.

On April 8, 2003, the Director of DCRA appeared before the Committee of the Whole to share the Mayor's language for the Budget Support Act regarding the abolishment of the RHC. He noted that DCRA's proposed FY 2004 budget reflects a \$1,272,000 anticipated reduction from the FY 2003 Baseline Budget. Mr. Clark shared that, given the budget reductions for FY 2004, the Department has had to make some very difficult decisions regarding program priorities for the coming Fiscal Year. They have to decide whether to fund programs that directly impact the health and safety of the District's residents or other important service programs. It was a difficult decision to abolish the RHC, but that decision is directly related to the agency's budget reductions.

Mr. Clark shared that the agency recognizes that this process is a change for landlords and tenants. However, the change does not impact on the rights of the appellant. In addition, having issued decisions and orders for more than 20 years, the RHC has established a library of case precedents. This information will continue to be a helpful resource that is accessible to appellants as well as the Rental Accommodations and Conversion Division and the courts. Parties can use this library as a research tool to assist them in preparing and litigating their cases. The library is readily accessible and user friendly.

Mr. Clark noted that the appointments for the 3 current Rental Housing Commissioners expire on July 18, 2003. He indicated that they will not be reappointed, but will be kept as hold overs until September 30, 2003.

Mr. Clark then shared that a transition plan has been designed and includes the following:

- 1) Appeals of final decisions and orders of the Rental Accommodations and Conversion Division will be entertained at the District of Columbia Court of Appeals (DCCA).
- 2) Currently, the RHC has 60 cases that have been certified for appeal. It is anticipated that the RHC will be able to issue approximately 18 - 20 decisions by the end of FY 2003.
- 3) The Rent Administrator will become the custodian of all RHC records and will be responsible for transferring the remaining cases and any subsequent cases to the DCCA for review and disposition.
- 4) The Rent Administrator will assume the responsibility for certifying subsequent records for appeal to the DCCA. Certification of cases to the DCCA requires that the record be made available in quadruplicate and indexed.
- 5) All RHC decisions will be placed on the agency's file net system of scanned records, to provide for public access.

- 6) Pursuant to the passage of the new legislation, DCRA will draft appropriate rules and procedures consistent with the new law.
- 7) The agency will publish notification to the public on the abolishment of the RHC, 60 days after the passage of the legislation. Procedures and filing fees for appeals are set forth in the rules of the DCCA.
- 8) Landlords and tenants will be educated about the new instructions for appealing decisions of the RACD to the DCCA through publications, workshops, public service announcements, community outreach, ANC meetings, DCRA's web site, and continuance of the monthly meetings currently being held with landlord and tenant representatives.
- 9) Currently, the Rent Administrator has the personnel and resources to take over the functions without incurring any additional cost to the agency.

The Committee made some inquiries about the number of cases previously sent from the Commission to the Court of Appeals. The current number of cases on appeal to the DC Court of Appeals from the Rental Housing Commission is 7. This is comprised of 2 cases from Fiscal Year 2003 and 5 from 2002.

Additionally, the Director shared information regarding the \$173,000 being absorbed by DCRA to support the Rental Housing Commission during this current fiscal year. During the FY 2003 Budgeting Process, \$173,000 and 2 FTE's were removed from the agency's budget reflecting savings from reducing the Rental Housing Commission by nearly 50% for the year as recommended by the Committee. However, the final budget approved by the Council prohibited the action for the reduction in the RHC, but did NOT restore the budget or the FTE authority. Consequently, since the agency had to retain the staff, the funding and FTE's had to be absorbed internally by the DCRA. In other words, other solutions to achieve budget savings of \$173,000 had to be made and 2 FTE positions could not be filled so that the agency could meet the budget – while still retaining the RHC staff and those expenses.

The Committee made the recommendation last year to reduce the RHC by 50% for much the same reasons. The Chair of the Committee noted again at the April 8th hearing that she did not believe that the workload for the RHC is commensurate with the level of funds necessary to maintain it. The Committee believes that the legislation which would allow appeals to be taken directly to the District of Columbia Court of Appeals is a good choice, given the budget constraints facing the District. As has been mentioned in prior years, there has been, over the years, a steady decline in the number of appeals brought and decided by the RHC. For this reason, **the Committee accepts the Mayor's Budget Support Act recommendations and strongly encourages DCRA to continue to proceed and to report on its transition plans for the abolition of the Commission. The Committee directs the agency to stop sending any new cases to the RHC from now on and to immediately start to share with tenants and landlords with cases before the Rent Administrator what the next steps will be.**

Notwithstanding its support of the abolishment of the RHC, the Committee is aware that renters comprise more than 60% of the District's population and has heard from numerous rental housing advocates, tenant associations and tenants themselves who have complained that tenants are often at a disadvantage in housing disputes and that rental housing officials are not particularly receptive to their entreaties in these disputes. **The Committee, therefore strongly encourages DCRA to consider**

developing a tenant advocacy program within its current structure.

The Committee heard from several witnesses who testified about the abolishment of the RHC. Testimony was taken by Benoit Brookins, II, who testified for Elinor Johnson, that the Rental Housing Commission was so understaffed that it was ineffective and that lack of enforcement was a major problem. He also testified that the RHC at one time had a staff and that it needed experienced staff.

Mr. David Conn, TAN, also testified. Mr. Conn noted that it was difficult for citizens to testify regarding the Mayor's FY 2004 budget proposal, since budget information had not been fully released at that point to the public. He testified in favor of a fully-funded and staffed Rental Housing Commission. He stated that he was not satisfied with the quality of housing inspections. He said he did not believe that the cross training of inspectors has been sufficient. He indicated that there are some defects in the law for tenants and rent control.

The Chair of the Committee noted that the Mayor's budget cut \$887,000 from DCRA's funding, including approximately \$227,000 for the Rental Housing Commission. She said she will not allow any inspector to be cut from DCRA. Mr. Conn explored other ways in which to fund the RHC, including through the rental unit registration fees DCRA is supposed to collect annually. The Chair of the Committee noted that this was a situation where the breach was honored more than the practice. She spoke in favor of establishing a tenant advocacy function within the Rent Administrator's office.

Larry Team wrote to the Council in opposition to the abolishment of the RHC.

Office of Adjudication: The agency's Office of Adjudication hears civil infractions cases and others. The Committee asked for information in preparing this budget from this part of the agency. The information provided included the chart below:

OAD Open Cases as of December 31, 2002

Rental Housing Remands	7
Civil Infraction Cases	960
Special Cases	7
Total Open Cases	974

Note: Definition of open cases: Those pending data entry, scheduling hearings and final decisions and orders.

Current Status of Cases

OAD Fines	FY 01	FY 02	FY 03
Assessed by ALJ's	\$1,300,000	\$1,021,403	\$389,270
Fines Paid	\$420,000	\$398,252	\$74,625

Rental Housing Cases: OAD is closing its caseload of Rental Housing Cases and currently hearing only such cases as they are remanded by the Rental Housing Commission. **The Committee expects neither the Rental Housing Commission, nor the Office of Adjudication to be accepting any new rental housing cases in light of the abolishment of the RHC and the removal of those cases to the**

courts.

Notices of Infractions: Minimum of 305
Special Cases: Scheduled only when submitted

Collection of Fines: Either the fine is paid or the collection agency retrieves the data to collect as a delinquent fine. More specifically, upon OAD's issuance of the final decision and order, the respondent has 15 days to appeal the decision and 10 days to request a stay of the judgment.

If payment is not received within 45 days, the collection agency initiates collection procedures. In addition, DCRA has begun to record liens on real property of delinquent violators.

Recidivists – OAD maintains a database that is used to identify recidivists. The following schedule is used to assess fines:

First Time Recidivist Offense	Fine X2
Second Time Recidivist Offense	Fine X3
Third Time Recidivist Offense	Tine X4
Fourth Time Recidivist Offense	Referred to OGC

Increased Deterrence – The Department completed a preliminary report at the Committee's direction on the civil infraction fine structure and fine amounts that was shared with the Committee in September 2002. Language was drafted to increase the fine amounts and to include fines for violations that currently are not included in the schedule of fines. In addition, as reported, compliance could be increased by the enactment and imposition of stronger enforcement tools such as:

- (1) Providing the administrative law judges in the agency with the same enforcement powers that are vested in the administrative law judges pursuant to the Office of Administrative Hearings Establishment Act;
- (2) Implementing the Clean Hands Act against housing providers who are delinquent in paying fines for housing code violations;
- (3) Redefining the classes of infractions;
- (4) Expanding the definition of recidivism for housing providers;
- (5) Imposing criminal misdemeanor sanctions against housing providers for failure to comply with final decisions and orders of the administrative hearing body; and
- (6) Eliminating redundant and multiple notices of infraction.

The Committee requests that the agency share, in priority order, its plans for accomplishing these improved enforcement tools. In particular, the Committee would like to start with the last suggestion of eliminating redundant and multiple notices of infractions. The Committee would also like to see whatever transition plan exists whereby the Office of Adjudication is shifted to the Office of Administrative Hearings by the start of the next fiscal year.

Backlog – The Office of Adjudication does not have a backlog of cases.

Staffing – No additional staff has been hired. The office has 4 full-time positions for administrative law judges, 3 of which are filled. The personnel papers are being processed to fill the fourth position with an administrative law judge who is currently on contract. Presently, the office has 2 clerical

staffers, one paralegal, 2 program specialists, and one adjudication program specialist. The office does not have any plans to change its staffing.

Business licensing – DCRA is responsible in for a significant amount of business licensing. The programs in this part of the agency include: the Business Licensing Center, Occupational and Professional Licensing (which staffs the boards and commissions at DCRA), Master Business Licensing, and Corporation Registration Certification. This part of operations also handles vending and special events.

Director Clark indicated at the Committee’s oversight hearing that the DCRA staff had accomplished a “gargantuan effort...in implementing the Master Business License program.” He shared the benefits to District citizens from this program:

- 1) The preparation of descriptions for over 400 types of businesses and industries. Using the North American Industrial Classification System, DCRA staff reviewed, examined, and made adjustments on the descriptions of over 400 types of businesses so as to properly classify them in conjunction with District law and regulations. Consequently, this involved a complete review of all the laws and regulations for each business.
- 2) The agency prepared customized fact sheets for each of the 400 business types identified, detailing the specific licensing requirements.
- 3) With the assistance of the Chief Technology Officer, DCRA has created a new “one of a kind” on-line Master Business License system. Feedback from residents has been positive on the changes that have been made.

Mr. Clark shared that DCRA had already issued over 41,950 Master Business Licenses, with over 2,600 coming through the on-line system. The Department plans to continue to work on implementing the Master Business Licensing and Registration system.

The Committee has just moved legislation to completely rework the Master Business License program by eliminating the MBL and greatly simplifying the procedures. In so doing, the Committee determined that the District needs to do a top to bottom review of the businesses that will be known as Licensed Businesses, particularly reviewing and justifying the fee structures set for different licenses for different businesses. The Committee would like to see this review accomplished by the end of second quarter of FY 2004.

Testimony at the Committee’s performance oversight hearing was taken from Theresa C. Bollech, a resident who spoke of her visit to DCRA to investigate whether there were any registration requirements for process servers after a very distressful visit to her home by a process server. She discovered that in the District of Columbia, process servers do not need a permit or to pass a criminal background check. The only 2 requirements are that a person must be over 18 years of age and not a party to the lawsuit. Ms. Bollech shared that she found this lack of registration requirements “shocking.” She asked why process servers do not have to be licensed or registered at DCRA.⁶

⁶ The Committee notes that in most jurisdictions, process servers do not have to be registered as businesses.

She found out that the process serving company in her particular case was not signed up to do business in the District of Columbia. Notwithstanding sharing that information with an Associate Judge in the Superior Court of the District of Columbia, by providing the court with a copy of the Certificate of No Record, the judge would not consider this evidence in her complaint against the process server's actions. She believes that this demonstrates that the laws the Council has enacted are not being enforced by the Superior Court.

In other testimony before the Committee regarding the shifting of the Educational Licensure Commission from DCRA to the State Education Office, the head of the SEO, Connie Spinner, requested that the Committee remove any ambiguity regarding license requirements in the Master Business License law. Ms. Spinner phrased the issue as "whether or not a District of Columbia institution offering post-secondary education and training may, by virtue of obtaining a Master Business License be exempted from licensure and oversight by the Educational Licensure Commission." The Committee has prepared new legislation which will soon be before the Council which does clarify the matter.

Boards & Commissions – There are a number of Boards and Commissions at DCRA, which are staffed by DCRA. Two of these Commissions came before the Committee during the FY 2004 Budget discussions for review: the D.C. Boxing and Wrestling Commission and the Educational Licensure Commission (ELC). The Mayor, with the Committee's support, has chosen to transfer the ELC from DCRA to the State Education Office. This will be formally done through a title in the Budget Support Act, which comes under the review of the Committee on Education, Libraries, and Recreation, but has already been accomplished operationally through a Memorandum of Understanding.

D.C. Boxing and Wrestling Commission – Dr. Arnold McKnight, Chair of the D.C. Boxing and Wrestling Commission, provided testimony at the Committee's FY 2004 Budget Hearing in March. Dr. McKnight noted some of the Commission's accomplishments, such as the 14 events it had held: 8 boxing matches and 4 wrestling events. He further testified that the D.C. Boxing and Wrestling Commission had attracted 4 new boxing promoters to the District. He also said that the Commission had been very successful in being able to get the expenses related to each event prior to the event. He shared that these fees were used to pay for the costs of doctors, inspectors, judges, and referees. Dr. McKnight stated that with a annual budget of \$50,000, the Commission had collected a total of \$228,000 on behalf of the District. He stated that the Commission's related expenditures were as follows: \$5,990 in license fees; \$22,880 in payments to officials, \$99,590 in commission fees and \$106,634 in D.C. taxes. Dr. McKnight also testified that the Commission was aware of budget constraints, but that the Commission needed more money for education and training for inspectors, referees, doctors. The Committee's Chair noted that it was unfortunate that no increase in the Commission's budget would be possible and emphasized that the role of the Commission was to regulate, not to promote boxing and wrestling events in the city. She suggested that it might be necessary to revise the law creating the Commission to eliminate any confusion sometime in the future to remove the Commission's responsibility for "promotion."

Transfer of the Educational Licensure Commission – The Mayor's FY 2004 recommends the transfer of the Educational Licensure Commission out of DCRA and to the State Education Office, as the functionality is more in keeping with the SEO. The Committee started entering into discussions about accomplishing this transfer at last year's budget cycle. During FY 2003, through agreements among agencies, this was actually done. There is a title in the FY 2004 Budget Support Act of 2003,

which is under review in the Committee on Education, Libraries, and Recreation, to formally legislate the transfer. **The Mayor's budget proposal for DCRA envisions a transfer of \$180,000 and 2 FTEs. The Committee approves this transfer from DCRA. Any additional needs of the SEO for the ELC must come from other sources.**

The purpose of the ELC is to ensure consumer protection for District residents and others who use education and training services provided by private institutions offering post-secondary education and training and located in the District of Columbia, or incorporated in the District of Columbia and offering services elsewhere.

At the Committee on Consumer and Regulatory Affairs' budget and performance oversight hearings in February and March, officials from the State Education Office who are already staffing the Educational Licensure Commission, came to testify about the transfer out of DCRA. Connie Spinner, State Education Officer, testified that the Educational Licensure Commission was responsible for the oversight of and regulation of all private post-secondary educational institutions in the District. She noted there are currently 28 licensed degree granting institutions and 41 non-degree granting, post-secondary schools as well as 8 congressionally chartered universities and 3 conditionally exempted off-campus programs. She also stated that the language in the FY 2004 Budget Support Act of 2003 will transfer the Education Licensure Commission to the State Education Office. Ms. Spinner provided that the ELC maintains approximately 500,000 records from closed institutions and provides student transcripts and other certified records upon request. Ms. Spinner then noted some of the initiatives the State Education Office had undertaken prior to the formal transfer. She also noted that the ELC "remains critically understaffed" and requested that the Committee support what it she referred to as a modest budget proposal to enable the ELC to fulfill its consumer protection mandate. She reminded the Committee that the City Administrator already had approved the request.

Dr. Rolin Sidwell, Director of the Education Licensure and Certification unit in the State Education Office, also testified that the ELC faced a number of challenges. He enumerated these as: a lack of basic information on the 70 regulated institutions; a site visit backlog of 18 months to 2 years; unlicensed entities in the District; and due to a staff shortage, challenges in responding to complaints, requests for hearings and other legal actions. He listed steps both taken and planned to address these challenges and closed by asking for support of the Commission's \$529,000 budget request, which he noted had been approved by the City Administrator and the Mayor.

This Committee's Chair, Councilmember Ambrose, made the observation that she has seen educational institutions springing up all over the city that could provide a lot of help to people, but at the same time, we want to make sure everyone is protected from unscrupulous operations and individuals.

Other Boards and Commissions - The Committee also wishes to thank the mainly volunteer members of the rest of the Boards and Commissions that are managed by DCRA's Occupational and Professional Licensing Administration ("OPLA"). OPLA processes applications, administers examinations, issues licenses, and maintains the District's official licensure records.

In 1999, OPLA entered into a "Firm Fixed Fee per Transaction Contract" with Assessment Systems Incorporated (ASI), with 4 annual renewal options, whereby ASI acts as OPLA's agent for the issuance of all professional licenses. Under this contract, ASI retains \$80 of each license fee and wires the remainder to the Office of the D.C. Treasurer on a daily basis. These wire transfers are

coded so that DCRA can account for the total dollar amounts after-the-fact. The CFO has indicated that currently there is approximately \$600,000 in the Office of Professional Licensing Administration - Special A account set up to account for this revenue.

In all, there are 11 Boards and Commissions under OPLA's management. These Boards and Commissions include: the Board of Accountancy, the Board of Architecture and Interior Designers, the Barber and Cosmetology Board, the Boxing and Wrestling Commission (already discussed), the Educational Licensure Commission (already discussed and to be transferred), the Board of Funeral Directors, the Gas Station Advisory Board, the Board of Industrial Trades, the Board of Professional Engineers and Land Surveyors, the Board of Real Estate, and the Board of Real Estate Appraisers.

The Board of Accountancy exists to promote dependability of the information used for guidance in financial transactions or accounting for, or to assess the status or performance of, commercial and non-commercial enterprises. This board also prescribes and assesses the qualification of accountants. The board promulgates rules and regulations, establishes standards for professional liability insurance and prescribes liability for torts; issues, revokes, suspends, or refuses certificates, permits, or registration; and holds hearings. This board is composed 5 members.

The Board of Architecture and Interior Designers exists to enforce and propose revisions to the laws and rules of the District of Columbia relating to the licensure of architects and interior designers and to regulate the practice of these disciplines. This board advises, administers examinations, received applications, evaluate qualifications, receives, evaluates, determines eligibility, and reviews applications of qualified applicants; holds hearings, prepared rosters of licensed architects and interior designers; maintains a register of licenses, maintains records of proceedings, and issues an annual report. This is a 7-member board.

The Barber and Cosmetology Board exists to license and regulate barbers, cosmetologists, and specialty cosmetologists; and to grant, suspend, and revoke licenses for registrations. This board advises, administers examinations, approves licenses, receives and reviews complaints, requests investigations, holds hearing, and renders decisions. This is an 11-member board.

The Board of Funeral Directors exists to license and regulate funeral directors, apprentice funeral directors, and funeral services establishments. This board evaluates applicants' qualifications, administers exams, and recommends individuals for appointment by the Mayor to the board. This is a 5-member board.

The Gas Station Advisory Board exists to make recommendations to the Mayor on petitions for exemptions from the moratorium on the reduction of services in the Moratorium on Retail (Gas) Service Station Conversion Act of 1979. This board establishes, publishes, and implements rules, procedures, and criteria for reviewing petitions. This is a 5-member board.

The Board of Industrial Trades exists to regulate the practices of plumbers, gasfitters, electricians, refrigeration and air conditioning mechanics, steam and other operating engineers, and asbestos workers. This 15-member board includes a chairman, 3 licensed electricians, 3 licensed plumbers, 3 licensed refrigeration and air conditioning mechanics, 3 licensed steam and other operational engineers, and 2 asbestos workers.

The Board of Professional Engineers and Land Surveyors exists to license and regulate professional engineers and land surveyors. This board grants, suspends, and revokes licenses and registrations; establishes policies, standards, regulations, and procedures; develops, administers, and grades examinations; determines eligibility, and conducts hearings. This is a 7-member board.

The Board of Real Estate exists to assist in licensing and maintaining records. This board establishes standards and carries out other duties with regard to real estate broker associates, real estate brokers, salespersons, property managers, and resident managers. This is a 7-member board.

The Board of Real Estate Appraisers exists to grant, suspend, and revoke licenses and to conduct hearings. This board administers and enforces provisions of law relating to the practice of real estate appraising, evaluates qualifications and credentials of applicants for licensure and certification; approves or disapproves applications for licensure, establishes examinations criteria; administers and oversees the administration of examinations; issues subpoenas; administers oaths, examines witnesses, receives complaints, reviews allegations, conducts hearings, defines continuing education requirements, and initiates disciplinary actions.

Promulgation of Regulations – The Committee requests a report on all bills that have been passed in the past 5 years that affect DCRA and on the corresponding regulations that should also have been completed. Please submit this report, including the name of the legislation, whether or not there are regulations required, when regulations have been completed or when they will be completed, and if they have not been completed an explanation as to when that will occur. Please submit this report by the end of FY 2003.

IV. Alcoholic Beverage Regulation Administration (ABRA)

Alcoholic Beverage Regulation Administration
Agency Operating Budget FY 2003 to FY 2004 (Dollars in Thousands)

Object Class	FY 2002 Actual	FY 2003 Budgeted	Mayor's FY 2004 Proposed	CRA Cmte. Proposed FY 2004	Variance
Subtotal for Personal Services	1,364	1,882	2,063	2,313	250
Subtotal for Non personal Services	612	1,134	953	1,213	260
Total Expenditures	1,976	3,016	3,016	3,526	510
Other FTEs	21	36	36	42	6
Total FTEs	21	36	36	42	6

The Alcoholic Beverage Regulation Administration ("ABRA") was created when Title 25, D.C. Code Enactment and Related Amendments Act of 2001 became law on May 1, 2001. This legislation was passed by the Council on final reading on December 19, 2000, and on reconsideration by the Council on January 23, 2001. It was signed by Mayor Anthony Williams on February 9, 2001, at which time it became D.C. Act 13-603.

The mission of ABRA is to issue alcoholic beverage licenses to qualified applicants, educate establishments in the prevention of alcoholic beverage sales to minors, and to educate businesses and the community on the license application process, including complaint and protest mechanisms. ABRA also investigates license violations, adjudicates contested cases, and enforces compliance with DC alcoholic beverage laws. The agency plans to fulfill its mission by achieving the following strategic result goals: 1) Improve the process for issuing alcoholic beverage licenses; 2) Partner with other agencies, including the Department of Consumer and Regulatory Affairs and the Office of Tax and Revenue, to provide one-stop business service to customers seeking licenses; 3) Ensure compliance with the District's alcoholic beverage laws, D.C. Official Code Title 25 and Municipal Regulations Title 23; 4) Partner with other agencies, including the Metropolitan Police Department, to combat underage drinking; and 5) Improve adjudicatory support processes that implement Alcoholic Beverage Control Board ("ABC Board") decisions.

Three Divisions of ABRA

Licensing

The Licensing Division processes applications, issues licenses, and provides information to the public about the licensing process. As part of the licensing function, ABRA maintains the District's official alcoholic beverage records; provides information about the number, type, and location of licensed alcoholic beverage establishments; and evaluates the need to propose changes in licensing fees. Currently, there are more than 1,600 establishments in the District with alcoholic beverage licenses.

Compliance

The Compliance Division ensures compliance with the District's alcoholic beverage laws and regulations. Investigators and auditors conduct inspections and investigate allegations of licensing

violations at alcoholic beverage establishments. Currently, there are 1,676 licensed alcoholic beverage establishments in the District. Staff issue citations when alcoholic beverage laws are violated and submit reports to the ABC Board on completed investigations. This program works to prevent the sale of alcoholic beverages to minors through licensee educational programs and enforcement. Compliance staff often work in conjunction with other government regulatory agencies, including the Metropolitan Police Department and the Office of Tax and Revenue.

Adjudication

The Adjudication Division supports the ABC Board's adjudication function by performing administrative duties and informing licensees and the public about the protest process. It also processes citations submitted by ABC investigators and the Metropolitan Police Department, monitors the status of protest hearings and voluntary agreements, and notifies parties and the public of ABC Board decisions. Adjudication staff work in conjunction with the Office of General Counsel to ensure the enactment of ABC Board decisions and orders.

FY 2004 Operating Budget

An analysis of ABRA's FY 2004 budget must begin with an examination of ABRA's FY 2002 actuals, the FY 2003 budget, and the Mayor's FY 2004 budget request. The Mayor's FY 2004 budget request is reflected in the following flow chart:

Agency Operating Budget FY 2001 to FY 2003 (DOLLARS IN THOUSANDS)

Object Class	FY 2002 Actuals	FY 2003 Budget	Mayor's FY 2004 Proposed	CRA Cmte. Proposed FY 2004	Variance
Regular Pay - Cont. Full	1,056	1,240	1,325	1,325	0
Regular Pay, Other	0	349	399	399	0
Additional Gross Pay	15	54	14	14	0
Fringe Benefits	180	238	276	276	0
Overtime Pay	113	0	50	50	0
Subtotal for Personal Services	1,364	1,882	2,063	2,063	0
Supplies and materials	24	108	80	80	0
Energy, Comm., Bldg. Rentals	0	4	4	4	0
Telephone, Telegraph, Etc	0	27	27	27	0
Rentals, Land and Structures	0	316	316	316	0
Security Services	0	6	6	6	0
Services Charges, Other	522	405	177	177	0
Contractual Services, Other	24	3	143	143	0
Equipment and Equip. Rental	41	265	200	200	0
Subtotal Nonpersonal Services	612	1,134	953	953	0
Total Expenditures	1,976	3,016	3,016	3,526	510
Other FTEs	21	36	36	42	6
Total FTEs	21	36	36	42	6

For FY 2004 ABRA is proposing a gross operating budget of \$3,016,000. The proposed budget represents no change from the FY 2003 budget of \$3,016,000. The number of authorized FTEs supported by the proposed budget is 36 which is the same as in FY 2003. The personal services part of the FY 2004 proposed budget is increased by \$181,000. At the same time the non-personal services would be decreased by \$181,000. The personal services increase is due to promotions and reclassifications of positions, including the fringe benefits, as well as the hiring of 8 FTEs.

Revenues

ABRA's FY 2004 budget is comprised entirely of "Other" or "O" type funding. Presently, it receives no appropriations from the General Fund of the District. The major source of Other type revenue for ABRA is the licensing and regulation of alcoholic beverage establishments in the District. ABRA charges a fee for administering new licenses and renewing licenses. ABRA also has the authority to collect fines for non-compliance with District ABC laws. The fees and fines involved in the oversight of alcohol regulations in the District have not been raised for over 10 years. Subsequently, the ABRA staff has worked towards adjusting the fees to better account for the cost of enforcement in the District. Currently, ABRA staff has identified a fee increase of approximately 30% in its part of ABC regulations which it intends to submit to the D.C. Council before the end of April, 2003. **The Committee strongly recommends that regulations from ABRA and the ABC Board that include an increase in fees be submitted to the D.C. Council by April 30, 2003.**

Since receiving the Mayor's budget proposal, the CFO has informed the Committee that a revised revenue estimate will be formally certified by late May. The precise information is shared in the "O-type" fund analysis below. The revised certification would increase ABRA's budget by \$510,300. The CFO believes that ABRA can fund the additional 6 FTEs it would like to hire from the carry-over funds it currently holds in its accounts. **Consequently, the Committee is approving the recognition of this revenue.**

Expenditures

According to the responses to written interrogatories from the Committee and the testimony received from Director Maria M. Delaney during the Budget Hearing of March 27, 2003, ABRA plans to spend its revenues on enforcing the new ABC law and as well spend on furthering its efforts in educational endeavors throughout the city. One of the main tasks of ABRA has been to combat the problems associated with underage drinking. Specifically, ABRA plans to spend its revenues on these efforts by expanding its staff from 36 FTEs to 42 FTEs in FY 2004, contingent upon the approval and implementation of ABRA's fee increase of approximately 30% provided by the proposed ABC regulations. The 6 new FTEs would be used primarily to hire 6 additional investigators to fill the needs of the Cooperative Agreement/Regulatory Inspection and Specialized Units as well as to staff a new ABRA Licensing Renewal Team. **The Committee strongly recommends raising ABRA fees as provided by the proposed ABC regulations. Given the revised revenue estimates from the CFO discussed below and the carryover amounts in the ABRA fund, the Committee would approve increasing the FTE authorization by 6 to a level of 42 and conditionally approves increasing ABRA's total budget by \$510,300.**

The Committee has recently received word from the Chief Financial Officer that the CFO will be formally revising revenue certifications in late May for "O-type" funding. In the case of ABRA, the CFO has indicated the new revenues, thusly:

SPECIAL PURPOSE (O-TYPE) REVENUE BUDGET **REVISED MAY 2003 CERTIFICATION**

FY 2004 Certification for	FY 2004 Certification for	
Mayor's Budget	Council Budget	Difference
3,016,000	3,526,300	510,300

Justification for Request:

Additional budget authority was requested to compliment current FTE level of 36, an additional 6 FTE's may be hired in order to further enhance the operations of the agency in the Personal Services area. ABRA also needs to purchase a software package for tracking of agency programs and outcomes as well as potential costs to move the agency.

The Committee has conditionally accepted the increase in FTEs and other enhancements.

The Committee on Consumer and Regulatory Affairs approves the FY 2004 budget of \$3,526,300, for the Alcoholic Beverage Regulation Administration, as it is presented by the Mayor and adjusted by the CFO's new revenue estimates.

FY 2003 Capital Budget

There are no FY 2003 capital budget proposals for the Alcoholic Beverage Regulation Administration.

Committee Budget and Oversight Hearings

FY 2004 Performance Oversight Hearing

The Committee held 2 hearings regarding the operations of ABRA. The first was a performance oversight hearing held on February 13, 2003. The second was a budget hearing on the FY 2004 Budget and was held on March 27, 2003. In preparation for both hearings, the Committee submitted questions to ABRA for its responses together with its written testimony. (*See* Appendixes A and B).

ABC Board Chairman Roderic L. Woodson testified on behalf of the Board at the February 13th performance oversight hearing. Mr. Woodson spoke of the Board's progress on the proposed rulemaking to implement the provisions of the new ABC law, DC Law 13-298. Mr. Woodson reported that the Board is in the last stages of this effort and that after it considers comments received from the public during a hearing held on December 18, 2002, it expects to submit the final version of its regulations to the D.C. Council for review at the end of March. **The Committee looks favorably upon the Board's progress on the proposed regulations and strongly urges that the process be finalized without undue delay. The Committee would like to receive an addendum detailing the number of meetings, public hearings, and geographic breadth of participation throughout the city involved in the proposed rulemaking feedback process.**

Chairman Woodson stated that the Board is very pleased with the leadership provided by ABRA's new Director, Maria Delaney. Mrs. Delaney's appointment greatly improved the relationship between the Board and ABRA by boosting morale among ABRA staff and by her efforts to increase consultation with the Board on major issues. **The Committee commends the appointment of Maria Delaney as Director of ABRA.**

Chairman Woodson testified that the Board is exploring crafting legislation that would create a "personal-use permit" that would allow individuals to import alcoholic beverages, or candies containing alcoholic beverages, into the District for their own personal use. At present, D.C. Official Code § 25-772(b) prohibits a non-licensed public or common carrier from transporting into the District alcohol-containing products in excess of one quart in any one calendar month. Additionally, D.C. Official Code § 25-772(a) only permits a District ABC license holder to transport more than a

gallon of alcoholic beverages into the District from another jurisdiction at one time. Chairman Woodson noted that it is the Board's view that a personal use permit should be limited to a small quantity each month and that the quantity would not be cumulative. **The Committee requests that the Board submit all drafts of and memoranda or proposals on the personal-use permit legislation for the Committee's consideration.**

Chairman Woodson testified that in the Board's view the current cooperative agreement system has been effective in aiding parties to resolve disputes between themselves or with the help of an ABRA staff mediator.⁷ In addition, Chairman Woodson reported that the effectiveness of the system has produced a significant decline in the number of protest proceedings heard by the Board, enabling the Board to focus on other important needs, including investigations and enforcement proceedings.

Councilmember Mendelson then inquired into whether the Board is attempting to reduce the number of cooperative agreements. Chairman Woodson responded that such is not the case. Chairman Woodson stated that although the Board is considering prescribing some approaches to handling cooperative agreements for the sake of clarity, the agreements will remain present in the ABC regulatory structure.

Councilmember Graham further inquired into 2 specific cases regarding the renewal of licenses for establishments where violent criminal acts had taken place right outside their doors and outer surroundings. Chairman Woodson responded that the Board has a policy for situations where violent criminal activity occurs in close proximity to an establishment. The policy is that when a situation involves the use of a weapon within the establishment such is enough to shut down an establishment. When the act occurs outside of the establishment then an investigation is in order given that the reality of urban life today is that acts of violence on the street are sometimes random and can lack a nexus to an establishment. Chairman Woodson added that in the specific incidents referred to by Councilmember Graham, MPD reported that such had been drive-by acts and therefore, in the Board's view, lacked a nexus with the establishments.

Councilmember Fenty inquired into a specific case concerning the suspension of an ABRA investigator. Chairman Woodson responded that the investigator at issue had been placed on administrative leave and an investigation was currently underway.

Councilmember Graham inquired into what the Board intended to do about noise problems linked to establishments in the Adams Morgan area. Chairman Woodson responded that it is a particular problem that needs to be addressed given that the city has permitted the concentration of establishments in certain areas. While such concentrations are part of urban life, finding a practical and fair formula to solve those particular noise problems is difficult given the close proximity of the establishments. Chairman Woodson added that although a solution will not be easy to come by, the

⁷ The ABC Board currently has several important roles in the oversight and enforcement of cooperative agreements between ABC establishments and community groups. First, the Board reviews the terms of each agreement prior to approval to ensure that they are enforceable by the Board and consistent with District and Federal law. Second, the Board reviews an establishment's compliance with an agreement during contested protest proceeding involving renewal applications. Lastly, the Board may hold a fact finding or show cause hearing on those agreements not being followed.

Board will commit itself to join with the Council and the community to find a reasonable accommodation.

Councilmember Ambrose noted that the issue of noise is a thorny one throughout the city and the particular sections of the relevant law have been revised and reconsidered a lot. Councilmember Ambrose further noted that cooperative agreements might help address this issue.

ABRA Director Maria M. Delaney testified that she has taken several steps to improve ABRA as an agency. Under the leadership of Director Delaney ABRA will be offering educational programs to ABC licensees and the community on the ABC inspection process, the protest filing and hearing process, cooperative agreements, and the new ABC regulations. ABRA hired a Human Resources Officer to improve personnel matters and a Community Resource Officer to facilitate links between the community and ABRA. The ABRA Licensing Division was provided structure at the management level with the creation of a Licensing Supervisor. It is anticipated that the Licensing Supervisor will make it easier to hold individuals in the licensing staff accountable for the completion of specific tasks. ABRA has updated its placards by bringing them into compliance with the new ABC law and by adding useful information such as the full title of a license as opposed to the old practice of using abbreviations. Lastly, ABRA has revamped ABC license applications and will place them online on the new ABRA website.

Director Delaney testified that the most significant improvement implemented is a procedure, commenced in October of 2002, whereby ABRA investigators conduct compliance checks on cooperative agreements at the same time regulatory inspections are conducted. Specifically, a regulatory inspection ABRA file now consists of a regulatory inspection form and a copy of a cooperative agreement, if one exists.

Director Delaney then reported on the 3 major initiatives of ABRA for Fiscal Year 2004. First, ABRA is in the process of partnering with MPD and the National Capital Coalition to Prevent Underage Drinking (NCCPUD) to conduct compliance checks and prevent underage drinking. ABRA was awarded over one million dollars in grant monies from the Department of Justice for the enforcement of underage drinking laws. Second, ABRA is currently working with OCTO to launch the new ABRA website which will serve as a powerful tool in communicating ABRA's mission and educating the public on ABC law and procedures. The website will also permit users to download applications and other forms as well as provide answer and question forums. Third, ABRA is currently working with DCRA's Office of Information Systems to develop a new computer system to improve maintenance and updating of files and records. Lastly, ABRA is in the process of leasing 20 new computers to replace older computers used by some staff.

Councilmember Ambrose expressed delight in hearing that Director Delaney had obtained a grant to help enforce underage drinking laws. Councilmember Ambrose also urged Director Delaney to work out a formalized training system whereby other agencies such as DCRA can contribute in producing cross-trained ABRA inspectors. Councilmember Ambrose then asked how many investigators and auditors ABRA currently had and whether Director Delaney planned on filling another FTE auditor position. Director Delaney responded that ABRA currently has 12 investigators and one auditor that suffices. Councilmember Ambrose then postponed further discussion on the cost efficiency of such an arrangement until the March 27, 2003 Budget Hearing.

FY 2004 Budget Oversight Hearing

On March 27, 2003 the Committee held a Budget Oversight Hearing. ABC Board Chairman Roderic L. Woodson testified on behalf of the Board. Noting that his tenure as ABC Chairman was ending, Chairman Woodson thanked the Mayor, the Committee, and Chairperson Ambrose for their support during his 4 year tenure. Chairman Woodson then testified that during his tenure the Board has repaired its adjudication functions, transforming its proceedings into some of the most efficient and professional among District administrative bodies. The Board assisted the Committee in overhauling the ABC law, fostered the establishment of a the new administrative agency ABRA, helped stabilize a funding stream for that agency, and recruited and hired senior staff for that agency.

Chairman Woodson testified that its proposed regulations to further implement the new ABC law will be forwarded to the Council on or before April 30, 2003. The regulations were the product of more than a year's work by 2 broad-based advisory committees appointed by the Board. In addition, the Board put considerable effort into soliciting and reviewing a large volume of comments and input from the community to develop a workable set of regulations. In light of such efforts, Chairman Woodson asked the Council to consider the regulations as a whole and avoid piecemeal review. **The Committee commends Board's efforts to include broad participation and input into its regulation drafting process. The Committee will ask the Council to be mindful of such efforts when the regulations come before it for review.**

Councilmember Ambrose commended Chairman Woodson for his efforts and achievements during his tenure. Councilmember Ambrose stated that when ABRA was created as an independent agency, the expectation was that it would support itself through fees and that regulation would pay for itself. Councilmember Ambrose then asked Chairman Woodson whether that expectation has been met.

Chairman Woodson testified that ABRA has met such expectations. ABRA, which does not receive funding from the General Fund, has a revenue stream from its licensing fee system that will be sufficient to cover expenses over the next fiscal year. Chairman Woodson stated that the he expects the revenue stream to be sufficient in the future as well. At the beginning of every year, ABRA is careful and constructs a budget. If the agency does well one year, it produces a rainy day fund and as it goes forward, it can use those benefits when problems arise.

Chairman Woodson stated that it is problematic for the agency, however, when the District government taps into the agency's funds to close budget gaps at the 11th hour. During FY03, the agency had saved money to move its location and purchase much needed computer equipment only to find much of those funds, \$550,000, swept away to fill the budget gap. Chairman Woodson stated that the District should be mindful of why there are O type funds and what they actually do.

Councilmember Ambrose stated her agreement with Chairman Woodson regarding the loss of \$550,000 generated by the agency during the fiscal crisis. Councilmember Ambrose stated that it is troublesome that a well managed agency, which plans its revenues carefully, like ABRA is penalized during such a crisis, while other not so well managed agencies are permitted to grossly overspend. Councilmember Amrbose added that while she strongly supports DCPS, for example, it is not good policy to continue over funding agencies instead of forcing them to live within their budget.

ABRA Director Maria M. Delaney then testified on behalf of the agency that the coming year will be a promising one for ABRA. The agency submitted its FY 2004 budget and it was accepted by the Mayor unchanged. Director Delaney stated that although ABRA's budget shows a substantial increase of \$181,000 in personal services costs, non-personal services costs have decreased by \$181,000. The personal services increase is due to promotions and reclassifications of positions, including fringe benefits as well as hiring 8 FTEs. Currently, ABRA is recruiting to fill 2 vacant positions. Additionally, while funds dedicated to training and the purchasing of new computer equipment have been decreased, such will not be detrimental to the operation of the agency.

Director Delaney testified that ABRA plans to make several new improvements in FY 2004. One of the improvements will be to develop a new computer database, with the support of DCRA, to improve ABRA's ability to track and update its records. This will increase efficiency and productivity, allowing ABRA staff to generate licenses quicker. A second improvement will be the creation of a renewal team as part of ABRA's Licensing Division. This will allow ABRA to process ABC license renewals in a more efficient manner. Director Delaney testified that the creation of such a renewal team will require 2 to 3 additional FTEs. A third objective for ABRA is to form specialized investigative units and to ensure the cross training of these units. Current special units, such as the Cooperative Agreements/Regulatory Inspection Unit, are understaffed. Director Delaney stated that the hiring of 3 additional ABRA investigators would greatly remedy the situation. Lastly, ABRA is in the process of exploring with the Office of the Corporation Counsel the possibility of hiring an attorney solely dedicated to preparing for and representing the District in Show Cause and Summary Suspension Proceedings before the ABC Board. This individual would be hired to fill the current vacancy for the second auditor position. Director Delaney testified that such a hire would improve the quality of government representation before the Board.

Director Delaney testified that ABRA would thus like to expand from 36 FTEs to 42 FTEs in FY 2004 contingent upon the implementation of ABRA's fee increase of approximately 30%, upon the passing of the proposed ABC regulations. The 6 new FTEs would be used primarily to hire 6 additional investigators to fill the needs of the Cooperative Agreement/Regulatory Inspection and Specialized Units as well as to staff a new ABRA Licensing Renewal Team.

Councilmember Ambrose inquired into whether the database would be available on the ABRA website. Director Delaney stated that most of the database as well as Cooperative Agreements will be available on the website, www.dc.gov. The public will then be able to access such agreements and discover what they provide as to particular establishments.

Councilmember Ambrose then inquired into whether Director Delaney was continuing to look for new office space for the agency. Director Delaney stated that the process will not commence until the new budget is established and permits it. The new budget will largely depend on the approval of the new regulations and the increase in fees that they are proposing.

Councilmember Ambrose inquired into whether the increase in fees will permit ABRA to adequately staff the inspection function. Director Delaney responded that the fees would help pay for the 6 new potential FTEs the agency is looking for.

Chairman Woodson then stated that it is important for the public to realize that if the regulations are approved it will be the first time these licensing fees and noncompliance fines have been raised. Furthermore, revenues generated from fines will not go to ABRA directly, but rather will contribute to

the General Fund. They are designed to have an effect on improper conduct and not just for added revenue. Thus, ABRA staff will not have an incentive to impose fines to increase the agency's revenue.

Councilmember Ambrose stated that she will resist any effort to oppose raising fees and fines since they have never been raised before and will greatly aid the regulation process to be self-sufficient. **The Committee strongly recommends raising the fees by approximately 30% as proposed in the forthcoming regulations.**

FY 2004 Budget Support Act of 2003

During the Committee's budget hearing on March 27, 2003, Councilmember Ambrose, Chair of the Committee on Consumer and Regulatory Affairs questioned the ABRA specifically regarding amendments that may be recommended for inclusion in the FY 2004 Budget Support Act of 2003 that would affect alcoholic beverage legislation, or would otherwise have an impact potentially on ABRA operations. The Director noted that there were not any amendments in the Budget Support Act coming from ABRA.

V. Department of Insurance and Securities Regulation

Department of Insurance and Securities Regulation Agency Operating Budget FY 2001 to FY 2004 (Dollars in Thousands)

Object Class	FY 2001 Actual	FY 2002 Actual	FY 2003 Budgeted	Mayor's FY 2004 Proposed	CRA Cmte. Proposed FY 2004	Variance
Subtotal for Personal Services	5,658	6,415	7,495	7,792	8,160	368
Subtotal for Non personal Services	1,860	1,931	2,272	1,933	2,085	152
Total Expenditures	7,518	8,346	9,766	9,725	10,245 ⁸	520
Other FTEs	80.75	91	103	103	107	4
Total FTEs	80.75	91	103	103	107	4

The Department of Insurance and Securities Regulation ("DISR" or "the Department") was established in 1997 when the Council separated the Insurance Administration from the Department of Consumer and Regulatory Affairs, and the Securities Licensing and Enforcement Division from the Public Service Commission, and combined the 2 into a single, cabinet-level agency. (*See D.C. Official Code § 31-101 et seq.*) Because of the fusion of these 2 different departments, DISR has 2 related, but differing missions. While different, both missions involve regulatory oversight over 2 industries that are normally regulated by states and that deal with financial risk issues.

The Committee notes that funding for the Department of Insurance and Securities Administration is provided through industry assessments and various fees, not through an allocation of local tax dollars.

Four Control Centers of DISR

DISR is organized into 4 control centers – the Agency Management, the Insurance Bureau, the Securities Bureau and the Fraud Division.

Agency Management

The first control center – the Administration – sits on top of DISR's hierarchy and comprises 37 FTEs and develops policies; provides legal guidance in insurance, managed care, and securities issues; provides direction on financial management issues; educates the public; reviews and evaluates departmental performance; and makes recommendations to the Mayor and the Council on modifications of the insurance and securities laws. It comprises 7 offices: the Office of the Commissioner, Office of the Deputy Commissioner, Office of Legal Affairs, Office of the Controller,

⁸ Part of the increase of \$368,428 is needed to fund 4 additional FTE'S and other Non-Personal Services expenditure. Two of these positions are needed in the licensing division to implement the recently acquired SBS system, which will process licenses this year for 31,000 resident and non-resident procedures, 89,000 insurance company producer appointments, and 1,300 insurance providers. The other 2 are needed to handle the additional complaints that we are receiving in the Department. The balance of the increase, \$150,604, is for negotiated cost of living increases for union employees and step increases for all employees.

Office of Public Information, Office of Systems and Technology, and the Office of Administrative Services.

Insurance Bureau

The Insurance Bureau comprises 46 FTEs and regulates insurance companies, mediates disputes between insurers and consumers, conducts financial analysis reviews and examinations of insurance companies and health maintenance organizations, and reviews and approves premium rates and policy forms.

The bureau has 4 divisions: the Financial Examinations, Insurance Products Division, Consumer and Professional Licensing, and Captive Insurance Division.

Fraud Bureau

The Fraud Bureau comprises 8 FTEs who are charged with protecting the interests of citizens doing business in the insurance and securities industries from the direct or indirect effects of fraudulent insurance or securities acts. It is empowered to conduct investigations of suspected fraudulent insurance and securities activities and to make referrals to the appropriate authority for criminal or civil actions against perpetrators. The Fraud Bureau has 2 divisions: the Compliance Division and the Investigative Division.

Securities Bureau

The Securities Bureau comprises 16 FTEs who are responsible for the licensing, regulation, and monitoring of broker-dealers and agents, investment advisers and their representatives and agents of issuers. Under the newly enacted Securities Act of 2000, the bureau is now also responsible for registration and regulation of securities issuance that are offered to citizens in the District

FY 2004 Operating Budget

An analysis of DISR's FY 2004 budget must begin with an examination of DISR's FY 2002 actuals, the FY 2003 budget, and the Mayor's FY 2004 budget request. The Mayor's FY 2004 budget request is reflected in the following flow chart:

Agency Operating Budget FY 2001 to FY 2004 (DOLLARS IN THOUSANDS)

Object Class	FY 2001 Actuals	FY 2002 Actuals	FY 2003 Budgeted	Mayor's FY 2004 Proposed	CRA Cmte. Proposed FY 2004	Variance
Regular Pay - Cont. Full	4,696	5,278	6,413	7,078	7,078	0
Regular Pay, Other	101	134	0	0	0	0
Additional Gross Pay	93	72	75	35	35	0
Fringe Benefits	768	889	1,007	1,007	1,007	0
Overtime Pay	0	42	0	40	40	0
Subtotal for Personal Services	5,658	6,415	7,495	8,160	8,160	0
Supplies and Materials	39	44	58	283	283	0
Communications (telephone)	65	70	71	62	62	0
Rentals, Land and Structures	813	801	815	890	890	0
Services Charges, Other	324	451	511	499	499	0
Contractual Services, Other	300	175	150	100	100	0
Subsidies and Transfers, Other	99	104	130	78	78	0
Equipment and Machinery	219	286	537	239	239	0
Subtotal Nonpersonal Services	1,860	1,931	2,272	2,085	2,085	0
Total Expenditures	7,518	8,346	9,766	10,245	10,245	0
Other FTEs	80.75	91	103	107	107	0
Total FTEs	80.75	91	103	107	107	0

For FY 2004, DISR is proposing a gross operating budget of \$10,244,456. That is an increase of \$478,146 from the FY 2003 budget of \$9,766,310. The number of authorized FTEs supported by the proposed budget is 107 which is 4 more than in FY 2003. Part of the increase of \$368,428 is needed to fund 4 additional FTE'S and other Non-Personal Services expenditures. Two of these positions are needed in the licensing division to implement the recently acquired SBS system, which will process licenses this year for 31,000 resident and non-resident procedures, 89,000 insurance company producer appointments, and 1,300 insurance providers. The other 2 are needed to handle the additional complaints that we are receiving in the Department. The balance of the increase, \$150,604, is for negotiated cost of living increases for union employees and step increases for all employees.

Revenues

DISR obtains funds from 2 sources – the Security Regulatory Trust Fund and the Insurance Regulatory Trust Fund. It receives no appropriation from the general funds of the District of Columbia. The Securities Regulatory Trust Fund, established by D.C. Official Code § 31-107(b), is funded by all monies "obtained pursuant to securities regulation[.]" and is used to pay for all of DISR's securities-related operations. For purposes of securities regulation, DISR utilizes fines and fees paid by securities broker-dealers and investment advisors.

For the regulation of insurance, DISR is funded by an assessment on insurers doing business in the District of Columbia under the Insurance Regulatory Trust Fund Act of 1997 (D.C. Official Code § 31-1201 *et seq.*) The Department assesses health maintenance organizations ("HMOs") under the same law (*also see* D.C. Official Code § 31-3402(d)). The Insurance Regulatory Trust Fund, established by D.C. Official Code § 31-1202(a), is funded through yearly assessments on all insurance companies and health maintenance organizations doing business in the District of Columbia, and is used to pay for all of DISR's insurance and HMO-related operations. The assessments used to fund the Insurance Regulatory Trust Fund may not be less than \$1,000 or more than 3/10 of one percent of a company's District of Columbia gross receipts; and the actual amount of the assessment for each company is based on the part of each year's DISR budget allocated to insurance and HMO functions. Further, assessments on insurance companies must be used to fund the agency's insurance functions; and assessments on health maintenance organizations must be used to fund DISR's HMO activities. Accordingly, the amount of each assessment on an insurance company is based on the part of each year's DISR budget allocated to insurance functions, and the amount of each assessment on an HMO is based on the part of each year's DISR budget allocated to HMO activities.

Two other aspects of these funds are noteworthy. First, they may not be used to support the activities of any other District of Columbia agency. Second, the funds do not operate within fiscal year limitations. Thus, any unused funds in one fiscal year are carried into the next one; and, within the Insurance Regulatory Trust Fund (overseen by the Insurance Regulatory Trust Fund Bureau), those rolled-over funds are either refunded to insurance companies and HMOs in the next year, or used to reduce the assessments on those companies in that year.

Since the Mayor's budget proposal was shared with the Committee, the Chief Financial Officer has informed the Committee that revised revenue estimates will be formally certified in late May 2003. The new revenue estimates show:

SPECIAL PURPOSE (O-TYPE) REVENUE BUDGET **REVISED MAY 2003 CERTIFICATION**

<u>FY 2004 Certification for</u> Mayor's Budget	<u>FY 2004 Certification for</u> Council Budget	<u>Difference</u>
9,725,424	10,244,456	519,032

Justification for Request:

USE: Part of the increase of \$368,428 is needed to fund 4 additional FTE'S and other Non-Personal Services expenditures. Two of these positions are needed in the licensing division to implement the recently acquired SBS system, which will process licenses this year for 31,000 resident and non-resident procedures, 89,000 insurance company producer appointments, and 1,300 insurance providers. The other 2 are needed to handle the additional complaints that we are receiving in the

Department. The balance of the increase, \$150,604, is for negotiated cost of living increases for union employees and step increases for all employees.

The Committee accepts the enhancement of 4 FTEs as well as the rest of the enhancements.

Expenditures

According to the Commissioner's testimony on March 27, 2003, the increase in the FY 2003 budget is due primarily to additional non-personnel costs required by the addition of new FTEs in FY 2001 and FY 2002.

With respect to the Department's FY 2003 budget request and the assessments of the insurance companies and HMOs, written testimony was submitted after the April 10, 2002 hearing, by the Board of Directors of the District of Columbia Insurance Regulatory Trust Fund Bureau. Matters relating to the Insurance Regulatory Trust Fund are overseen by the Insurance Regulatory Trust Fund Bureau, which is comprised of all insurance companies and HMOs subject to assessments. Among the duties of the Insurance Regulatory Trust Fund Bureau is to review DISR's budget request in advance of Mayor's budget submission to the Council. The Board supports the Mayor's budget request for the Department.

The Board of the Trust Fund emphasized that the Trust Fund account funds may not be used to support any other operations or department of the District government. Moreover, the law provides that an annual assessment is to be the only assessment levied on insurance carriers and HMOs for support of the administrative costs of doing business in the District. Furthermore, the Bureau has no role in advising on the collection or use of those funds, aside from seeing that costs are properly prorated and that insurance company assessment funds are not used to support securities regulation.

Finally, the Board submitted comments regarding the Health Benefits Plan Members Bill of Rights Act of 1998. The Board sees a possible conflict with the Trust Fund monies since they cannot be used in any manner by any other department. Under the current law, the Department of Health is delegated the authority specifically regarding denials of insurance coverage based on medical necessity. As a result, the Department of Health has requested that DISR reimburse them for the cost to do this assessment, which is estimated to be \$500,000. This would create a conflict because of the legal impact it would have on the Trust Fund, given the mandate that the Trust Fund monies cannot be used by other departments. The Board believes that DISR itself could also handle medical necessity dispute resolution, by potentially contracting the function out for the required independent review and the Board estimates that DISR could accomplish this function at a lesser cost than the Department of Health has recommended. **The Committee agrees with the Board that there is the possibility of conflict regarding the investigation of refusal to pay insurance claims in health care situations and that this issue needs to be addressed as quickly as possible after the budget has been considered. The Committee is recommending that the transfer of these functions from the Department of Health to the Department of Insurance and Securities Regulation take place in the FY 2004 Budget Support Act.**

In further testimony on March 27, 2003, the Commissioner emphasized that, although none of the costs of operating the Department is derived from the general funds of the District, the industries regulated by the Department contribute substantially, directly and indirectly, to the District's financial well-being. DISR's goal is to increase these revenues by creating a legal and regulatory climate that will be favorable to encourage insurers and securities firms to locate their operations in the District.

The Committee concurs with the viewpoint and goal that DISR should do all it can to encourage insurers and securities firms to locate in the District. The Chair of the Committee further notes that development of proper securities laws is a risk management issue and that the Department needs to be ready to regulate in all the areas in which it has jurisdiction.

The Committee is pleased that DISR has been diligent in maintaining a balance between expenditures and revenues. When DISR was created, the Council mandated that the department be funded completely out of the regulatory fees that it collected from the industry. DISR has taken that mandate and perfected it in practice. There seems to be, in DISR, a complete understanding that the work that needs to be done regarding education efforts and consumer protection can only be done when a sufficient funding source has been established. The staff at DISR has worked very hard over the past 4 years to achieve a level of funding that now enables them to work even more diligently on creating some of the many needed community education and consumer protection tools.

To this end, there have been many bills proposed by DISR to the Committee, as well as, passed by the Committee to aid DISR in their operations, over the past several years. Given the nature of the legislation it is often the case that there needs to be regulations in place to adequately enforce the law. The Committee would requests a report on all of the bills that have been passed that effect DISR and on the corresponding regulations that should also have been completed. Please submit this report, including the name of the legislation, whether or not there are regulations required, when regulations have been completed or when they will be completed, and if they have not been completed an explanation as to when that will occur. Please submit this report by the end of FY 2003.

Part of the increase of \$368,428 is needed to fund 4 additional FTE'S and other Non-Personal Services expenditure. Two of these positions are needed in the licensing division to implement the recently acquired SBS system, which will process licenses this year for 31,000 resident and non-resident procedures, 89,000 insurance company producer appointments, and 1,300 insurance providers. The other 2 are needed to handle the additional complaints that we are receiving in the Department. The balance of the increase, \$150,604, is for negotiated cost of living increases for union employees and step increases for all employees.

The Committee on Consumer and Regulatory Affairs approves the FY 2004 budget of \$10,244,456 for the Department of Insurance and Securities, as it is presented by the Mayor with the additional revenues to be certified by the CFO.

FY 2004 Capital Budget

Neither the Mayor, nor the Committee has made any FY 2004 capital budget proposals for the Department of Insurance and Securities.

Committee Budget and Oversight Hearings

The Committee held a hearing regarding the operations and budget of DISR. The oversight hearing was held on March 13, 2003 and the budget hearing on the FY2004 Budget was held on March 27, 2003. In preparation for this hearing, the Committee submitted questions to DISR for its responses together with its written testimony. (See Appendixes A and B).

In the oversight and budget hearing the Commissioner, Lawrence H. Mirel, of the Department of Insurance and Securities presented testimony on behalf of DISR regarding activities and performance

for FY 2002 and status of performance for FY 2003. Commissioner Mirel's testimony included descriptions of the activities of the Bureaus as well as the future plans of the Office.

In the hearing the Commissioner, Lawrence H. Mirel, of the Department of Insurance and Securities presented testimony on behalf of DISR regarding FY 2004 budget issues. Accompanying Commissioner Mirel to the hearing were: Bright Ahaiwe, Controller, Dana Sheppard, Director of Policy and Public Affairs and the operating bureau directors: Margaret Schruender, Insurance, Theodore Miles, Securities, and Stephen Perry, Fraud.

For a more in-depth exposition of the work each Bureau is performing see, *infra*, "Four Control Centers of DISR". DISR submitted written answers to questions the Committee posed and also presented testimony at both of the hearings.

Commissioner Mirel also noted that the terrorist attacks of September 11, have required major changes in the way DISR deals with its responsibilities. He stated that although the District was spared a direct hit in the attacks, the implications for the city in this new age are clear. The Commissioner explained that the District must be prepared for any future attack. And, since insurance claims in the wake of any catastrophe are important to the recovery effort, DISR is working with an insurance industry group to develop a master plan for coordinating insurance claims activities following a major disaster. In particular Commissioner Mirel explained that he had just recently completed negotiations with the insurance industry on how the District's commercial real estate is rated. Commissioner Mirel did not state that he is pleased with the District's agreement with the Insurance Services Office (Which is who conducts the ratings.), because it protects existing District businesses and the District's economic development efforts against unreasonable burdens due to the risk of terrorism. But he did point out that the agreement with them is only an interim solution and over the longer term there needs to be a national recognition that terrorists are targeting the United States and the burden of protecting against those threats should not be unfairly borne by businesses located in the nation's capital but should be shared by all.

With respect to the Department's FY 2004 budget request and the assessments of the insurance companies and HMOs, written testimony also was received from the District of Columbia Insurance Regulatory Trust Fund Bureau. Matters relating to the Insurance Regulatory Trust Fund are overseen by the Insurance Regulatory Trust Fund Bureau, which is comprised of all insurance companies and HMOs subject to assessments. Among the duties of the Insurance Regulatory Trust Fund Bureau is to review DISR's budget request in advance of Mayor's budget submission to the Council.

Commissioner Mirel also explained that DISR had contracted with a firm (prior to his tenor with DISR) known as ASI to license insurance agents and brokers for the District of Columbia—a service which ASI also provides to other states and to other departments of the District Government. Under the arrangement made with ASI, agents and brokers would pay a fee to ASI for administering examinations, processing initial and renewal licenses, maintaining the District's licensing and complaint database, and providing back office support for the Department's licensing process. ASI would collect the fees directly from the agents and brokers, deduct its share of those fees, and turn over the rest of the money to the District's Treasury. At the time the arrangement made sense because of DISR's very limited computer processing capability.

In the early years of the contract agreement, ASI was processing some 30,000 producer licenses a year and earning a minimum of \$500,000 from this contract, while transferring less than \$200,000 to

the D.C. Treasury. In recent years, however, with the development of the nationwide licensing system there has been a sharp increase in the number of producer licenses and company appointments issued in D.C., more than 150,000 in 2002 alone. As a result, the amount earned by ASI in 2002 was just under \$3 million dollars, with a little more than \$1 million turned over to the District's Treasury. These payments to ASI were expected to grow substantially in future years.

Two years ago the National Association of Insurance Commissioners (NAIC) announced the creation a new licensing database called the State Based System (SBS), to better serve the insurance industry by providing a centralized, web-based, licensing system for insurance producers—a national data base of licensed agents and brokers, made possible by the enactment of the uniform producers laws by each of the states. DISR approached the NAIC to inquire if the District could use the NAIC's database as an alternative to our licensing process with ASI. NAIC was very interested in that idea and has established a pilot licensing program, consisting of the District, New Jersey, and Delaware, that will use the NAIC's national producers data base for state licensing. If the pilot proves successful, eventually all states will be able to use the data base for producer licensing. As the lead jurisdiction in this pilot program, DISR has worked closely with the NAIC in the design and configuration of the program. The new system will be much less costly than the ASI system. The NAIC will keep only \$40,000 a year for providing access to the data base, with the rest of the producer fees going directly to the D.C. Treasury. DISR anticipates that the new licensing process will provide additional revenues to the District of at least \$12 million over the next 4 years, and perhaps as much as \$15 million, without any increase in the license fees charged to producers.

Commissioner Mirel did note however that at the same time, the new system will require more work on the part of DISR staff – back office activities that were formerly performed by ASI. DISR is in a very different place today, however, than it was when the agreement with ASI was entered into. Now there is a state-of-the-art computer system that is fully capable of handling the licensing process. Even with DISR's computer capability, however, there will need to be an additional 2 persons on staff to handle the processing of some 150,000 licenses and license renewals each year. Those 2 additional persons are included in the proposed budget for FY 2004. **The Committee recognizes that this addition to the FTEs in FY 2004 is a very worthy investment and enthusiastically endorses the increase.**

FY 2004 Budget Support Act of 2003

During the Committee's budget hearing on March 27, 2003, Councilmember Ambrose, Chair of the Committee on Consumer and Regulatory Affairs questioned the Commissioner of the Department of Insurance and Securities specifically regarding amendments that may be recommended for inclusion in the FY 2004 Budget Support Act of 2003 that would affect insurance or securities legislation, or would otherwise have an impact potentially on DISR operations. The Commissioner noted that there were not any amendments in the Budget Support Act.⁹

⁹ Subsequent to the Committee vote on the FY 2004 Budget Report, the Committee was informed of a repealer that was inadvertently left out of a model insurance investment act which was passed by the Council in Council Period XIV. The Committee has recommended including these amendments to the Life Insurance Act of 1934 and to An Act to amend the Life Insurance Act of the District of Columbia in the Budget Support Act to resolve this technical problem.

The Life Insurance Act of 1934 contains provisions pertaining to the regulation of group

VI. Department of Banking and Financial Institutions

Department of Banking and Financial Institutions Agency Operating Budget FY 2003 to FY 2004 (Dollars in Thousands)

Object Class	FY 2001 Actual	FY 2002 Actual	FY 2003 Budgeted	Mayor's FY 2004 Proposed	CRA Cmte. Proposed FY 2004¹⁰	Variance
Subtotal for Personal Services	1,183	1,348	1,712	1,835	1,835	0
Subtotal for Non personal Services	1,068	3,030	724	611	611	0
Total Expenditures	2,251	4,378	2,437	2,446	2,446	0
Other FTEs	15.5	22	27	27	25	2
Total FTEs	15.5	22	27	27	25	2

The Department of Banking and Financial Institutions was created in 1986 to regulate financial institutions operating in the District of Columbia. DBFI has the primary duties of chartering and regulating banks, savings banks, trust companies, and other financial institutions seeking to establish an office in the District where deposits or savings are received. DBFI is also charged with regulating mortgage lenders and brokers, check cashers, money transmitters, consumer sales finance companies, moneylenders, and consumer credit service organizations operating in the District of Columbia.¹¹

life insurance that are outmoded and unnecessarily restrictive. The business of group life insurance today encompasses business structures that were not even imagined in 1934, including the establishment of group life insurance trusts. These trusts typically contain millions of dollars and cannot be located in the District of Columbia under present law. By repealing the unnecessary and restrictive language of the current law, the District would become a jurisdiction of choice for the location of these trust funds, which would be an important step toward the goal to make the District a national and international center for insurance and other financial activities. In addition, by opening up the District as a jurisdiction of choice, the Committee has been informed that approximately \$50 million would be likely to be invested in the District, leading to DISR collecting premium taxes from these companies.

¹⁰ The Committee initially recommended an FY 2004 operating budget of \$1.5 million and 16.5 FTEs. At the April 15, 2003 Committee markup a motion was made by Councilmember Harold Brazil that approved DBFI's originally proposed budget authority of \$2.4 million and 27 FTEs. The motion passed. Councilmember David Catania then made a motion to reject DBFI's request for 27 FTEs and approve only up to 25 FTEs. The motion passed. As a result, the Committee approved a DBFI FY 2004 budget of \$2.4 million and 25 FTEs.

¹¹ In 2001, functions related to the regulation of mortgage brokers and lenders were transferred to the Department of Banking and Financial Institutions. The FY 2002 Budget Support Act of 2001 contained a title regarding a Consumer Credit and Money Lender Reorganization that transferred the regulation of businesses loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real estate brokers in the District

DBFI's activities in licensing, chartering, examinations, and investigations function to protect District residents from unfair and abusive practices and to provide a fair and equitable business arena for all financial institutions conducting business in the District.

DBFI's mission and goals are to promote a climate in which financial institutions will organize to do business in the District and contribute to the economic development of the District through the increased availability of capital and credit. It has a mandate to assure that all financial institutions operating in the District provide financial services to the public in a manner that fosters the development and revitalization of housing and commercial corridors in under-served neighborhoods. DBFI is committed to protect District residents from unfair and abusive practices and yet still be able to establish a fair and equitable business arena through education and statutory reform.

In addition, after the terrorist attacks of September 11, 2001, DBFI took on additional responsibilities in association with the Council's enactment of the District of Columbia Emergency Economic Assistance Act of 2001. DBFI has worked with the Office of the Chief Financial Officer to develop program policies and procedures and to obtain authorization from Congress to provide loan guarantees. In order to provide assistance to District businesses prior to Congressional authorization and the identification of funding, DBFI and the OCFO developed and implemented the District of Columbia Economic Relief Loan Program. The program provides deposits of District funds in participating District banks. Those banks receiving District deposits are required to provide loans to District businesses adversely impacted by the terrorist attacks and the closing of National Airport, and which would otherwise not qualify for conventional financing. The program currently has 5 participating banks which have provided 37 loans to businesses in the amount of \$5,555,000, and an additional 37 loans are pending in the amount of \$2,010,000.

Five Divisions of DBFI

DBFI has 5 divisions that work together to achieve these goals. The divisions include: Legal Services; Safety and Soundness; Community Reinvestment/Community Based Lending; Community Outreach; and the Office of the Commissioner.

Legal/Compliance Division

During FY 2004, the Legal Services Division's 4 FTEs, 3 of which are Grade DS-13 or above, intend to address deficiencies within the District's regulations to ensure adequate protection for residents from abuses by financial institutions and to foster a business-friendly climate to attract financial institutions to operate in the city. This division also intends to work to protect District residents from the ravages of predatory lending by implementing the "Home Loan Protection Act of 2002".

The Division provides legal, legislative, compliance, and enforcement support for the Department. Its role is to develop and update statutes and regulations, issue legal opinions, assist in the investigation and resolution of consumer complaints, provide legal support to the Department's examination, investigation, and enforcement activities, and to give legal advice as needed.

Safety and Soundness Division

of Columbia, from DCRA to DBFI.

The Safety and Soundness Division contains 10 FTEs, 3 of whom are Grade DS-13 or above, and is responsible for the chartering, licensing, examination, and investigation of financial institutions in the District. The Division also provides a business-friendly environment in which these entities can easily operate. This Division licenses both non-depository and depository institutions authorized to conduct business by the District. Categories of non-depository licensees include: mortgage lenders and brokers, money transmitters, check cashers, moneylenders, automated teller machine operators, consumer credit service organizations, and consumer sales finance companies. The Division specifically performs the following activities: 1) Promotes and ensures the safety and soundness of depository and non-depository financial institutions through periodic examinations; 2) Monitors the financial condition of regulated institutions through the pre-licensing screenings and examination of their operations; and 3) Investigates consumer complaints and allegations of illegal or unsound banking practices by licensees to ensure regulatory compliance.

The depository section of the Safety and Soundness Division is authorized to charter District commercial banks, savings institutions, trust companies, universal banks, merchant banks, and international banks. The non-depository section processes new licenses and renewal applications for mortgage lenders and brokers, check cashers, money lenders and consumer sales finance companies, and money transmitters.

CRA/Community Based Lending Division

In FY 2004, the CRA/Community Based Lending Division plans to have 2 FTEs to work on ensuring that the federal Community Reinvestment Act of 1977 ("CRA"), and all its provisions, is adhered to by District banks. DBFI's CRA responsibilities include monitoring community-lending agreements entered into with banks committing millions of dollars in loans and investments to the city's underserved communities. DBFI has a specific mandate to assure that all financial institutions under its supervision, as well as those seeking entry into the District do the following: 1) Provide financial services to the public in a manner that fosters the development and revitalization of housing and commercial corridors in under-served neighborhoods in the District; 2) Help meet the credit and deposit services needed by low-income and minority residents; and 3) Expand the financial and technical support for local, small and disadvantaged businesses.

Some ongoing programs planned by this Division include: creating bank Ward maps to catalogue the changes in bank and check cashing locations and ATM availability; updating quarterly information on the 22 banks operating in the District through the use of the Bank Community Reinvestment Act (CRA) profiles (These profiles provide a snapshot of each bank's institutional history, services provided, headquarters location, assets, state primary focus of activity, rating as given by appropriate federal regulators, and number of ATMs in the District.); compiling banking demographic information by Ward detailing the number of banks in each ward; and generally supporting economic development in the District.

Community Outreach Division

The Community Outreach Division has 3 FTEs assigned and is meant to be a full-service financial information and consumer protection resource center for individuals and institutions in the District. This division partners with the financial services industry, government agencies, businesses, non-profits and community-based organizations to deliver informational services to the broadest array of citizens in a variety of community settings including at home, work, and school.

Outreach efforts include an advertisement campaign (involving participation in District fairs, press releases and Ward meetings), informing District residents of the pitfalls of predatory practices. The Division also partners with mortgage companies to create home-buying seminars which are offered with community partner organizations. This series of training classes is intended to increase the number of residents who will have access to information regarding home-buying possibilities.

During FY 2004, the Division plans to provide basic financial literacy opportunities for all residents of the District through Ward-based workshops, forums, and community fairs and seminars.

Office of the Commissioner Division

The Commissioner Division has 8 FTEs, 4 of whom are DS-13 or above, and establishes policy and sets strategic goals. Additionally, the division handles administration, budget, office procurement, personnel, and the DBFI website. This division, in FY 2004, plans to continue to build a foundation for a solid office infrastructure, and develop the agency's website to provide interactive information and service requests consistent with the District's website and customer service initiatives. It is the responsibility of the Office of the Commissioner to maintain full staffing levels of qualified personnel and to provide the necessary tools and resources required to effectively carry out the mandated mission of the agency.

FY 2004 Operating Budget

An analysis of DBFI's FY 2004 budget must begin with an examination of DBFI's FY 2002 actuals, DBFI's FY 2003 approved budget, and the Mayor's FY 2004 budget request. The Mayor's FY 2004 budget requests for DBFI is reflected in the preceding chart above.

In FY 2004, DBFI is proposing a gross operating budget of \$2,446,131. That is an increase of \$9,479 over the FY 2003 approved budget of 2,436,652. The number of authorized FTEs supported by the proposed budget is 27, which is exactly the same as FY 2003. The 27 FTEs are funded solely by Special Purpose sources. The personal services ("PS") FY 2004 proposed budget is \$1,835,000 or \$122,358, above the FY 2003 approved budget. At the same time the non-personal services ("NPS") proposed budget is \$611,000 or \$122,358 below FY 2003.

In addition, in the revised May 2003, Certification, DBFI has requested an enhancement of \$19,904,693. The justification for the request is that the Department of Banking and Financial Institutions (DBFI) has received a federal payment of \$13,000,000 for Credit Enhancement to Charter Schools (subject to a Federal rescission of .065%) and an additional \$5,000,000 for a Direct Loan Fund to Charter Schools. A carryover amount of \$1,433,500 from FY 2002 for a previous Credit Enhancement payment received in FY 2001 was also requested to make available for use as well.

SPECIAL PURPOSE (O-TYPE) REVENUE BUDGET **REVISED MAY 2003 CERTIFICATION**

<u>FY 2004 Certification for</u> Mayor's Budget	<u>FY 2004 Certification for</u> Council Budget	<u>Difference</u>
2,446,131	22,350,824*	19,904,693

The Committee would not accept these enhancements to revenue because this money represents a pass-through and is not part of DBFI's operating budget at all. The Committee initially proposed

limiting this agency's budget to no more than \$1.5 million, given its track record in the collection of revenues. In addition, the Committee further proposed holding DBFI to a 40% level of its current budget as a precaution to avoid getting into a deficit situation. **At the April 15, 2003 Committee markup, a motion was made by Councilmember Brazil to approve a FY 2004 budget for DBFI of \$2.4 million and 27 FTEs, as the Mayor originally proposed. The motion passed. Thereafter, Councilmember Catania made a motion to cut the FTE approval by 2, from 27 FTEs to 25 FTEs. This motion also passed. The Committee has approved a DBFI FY 2004 budget of \$2.4 million and 25 FTEs.**

Revenues and Expenditures

The Committee is appalled that this agency has failed to maintain a realistic balance between actual expenditures and requested revenues. When DBFI was created, the Council mandated that the Department be funded completely out of the regulatory fees that it collected from the industries it regulated. DBFI has not taken that mandate and perfected it in practice. There seems to be, in DBFI, a complete misunderstanding that the work that needs to be done regarding banking and financial institutions regulation can only be done when a sufficient funding source has been established. The staff at DBFI has failed over the last 2 fiscal years to achieve a level of funding that realistically matches its revenue projections. Naturally, the Committee is not pleased that DBFI's FY 2004 projected revenues are again as unrealistic as the Department's projections for FY 2003 and FY 2002 proved to be.

DBFI's FY 2004 budget is comprised entirely of "Other" or "O" type funding. Presently, it receives no appropriations from the general funds of the District of Columbia. The major source of Other type revenue for DBFI is the licensing and regulation of non-depository institutions. The largest single area continues to be the licensing and renewal fees generated by the Mortgage Lender and Broker Act of 1996, which DBFI's Commissioner claims will be \$1,140,540 in total anticipated revenues. The examination fees of mortgage lender's and broker's licenses is anticipated by the Commissioner to result in an additional \$345,600. The mortgage broker's and mortgage lender's loan review fees are expected to be \$150,810. Projected total revenue from check cashiers is anticipated to be \$57,050. The Commissioner claims that approximately 163 licenses are expected to be issued or renewed in the areas of money lenders, auto and consumer sales finance companies, and are alleged to result in \$67,186 in anticipated revenue for FY 2004. The money transmitters area is projected to produce \$52,000 in revenues for FY 2004. With regard to depository institutions, the Commissioner's projections claim that DBFI will be able to collect in additional depository institution fees a revenue of \$19,000 from 5 trust companies, 3 bank branches, 2 commercial banks and one international bank. To date, however, only one commercial bank, Legacy Bank, is in the process of being chartered locally. In the "Other" revenue category, DBFI is anticipating \$50,000 in late fees, \$5,000 in licensee lists, \$40,000 in enforcement penalties, and \$250,000 for administering the Charter School Credit Enhancement Program. DBFI's total projected revenue for licensing, chartering, and examination activities during FY 2004 are thus \$2,424,786.

In FY 2003, DBFI projected an unrealistic revenue of \$2.4 million for its FY 2003 budget. In particular, DBFI projected revenues for the licensing and renewal fees generated by the Mortgage Lender and Broker Act of 1996 at \$1,104,400. The examination of mortgage lender's and broker's licenses was anticipated to result in an additional \$805,600. Projected total revenue from check cashiers was anticipated to be \$37,300. And in the areas of money lenders and consumer sales finance companies, approximately 30 licenses were expected to be issued or renewed, resulting in \$12,756 in

anticipated revenue for FY 2003. With regard to depository institutions DBFI planned to charter one new commercial bank and one international bank, with a planned revenue of \$5,000. The new Trust Company Act implementation was projected to add \$50,000 in revenue. DBFI planned to charter 2 credit unions in FY 2003, resulting in a projection of \$6,000 of revenue. In conclusion, DBFI's total projected revenue for licensing, chartering, and examination activities during FY 2003 was \$2,680,692. In addition, DBFI planned to carry over approximately \$400,000 in previously earned revenues.

With only half a year left in FY 2003, DBFI's actual revenue to date in FY 2003, however, has been \$871,256. During FY 2003 to date, DBFI's actual revenues for the licensing and renewal fees generated by the Mortgage Lender and Broker Act of 1996 have been \$228,500. The examination of mortgage lender's and broker's licenses has brought in \$0 to date. The FY 2003 actual revenue to date from check cashiers is \$19,325. Revenues from licenses issued or renewed in the areas of money lenders, auto and consumer sales finance companies has been \$10,405. The money transmitters area has generated actual revenues of \$20,900 to date. With regard to depository institutions, DBFI actual revenues in additional depository fees have been \$20,000. In the "Other" revenue category, DBFI actual revenues are currently estimated at \$9,000 in late fees, \$1,050 in licensee lists, \$200,000 in enforcement penalties, \$72,000 in unapplied amounts, and \$175,000 for the Charter School Credit Enhancement Program. In conclusion, DBFI's total actual revenue for licensing, chartering, and examination activities in FY 2003 to date is \$ 871,256. With only one quarter left in the current fiscal year, the Committee seriously doubts that DBFI will be able to timely raise its actual current revenues of \$871,256 to the level it projected for FY 2003 at \$2.4 million. Consequently, the Department will have to greatly decrease its expenditures in FY 2003.

In the Committee's judgment, DBFI's current annual rent costs of \$227,000 for office space is too high given the state of the Department's current actual revenues in FY 2003. **The Committee directs that the Department commence a search for office space with more modest rent costs that accurately reflect market prices for a staff of 27 FTEs.**

For FY 2002, DBFI projected a revenue of \$2.5 Million. During FY 2002, DBFI's projected revenues for the licensing and renewal fees generated by the Mortgage Lender and Broker Act of 1996 were expected to be \$885,000 in total anticipated revenues. The examination of mortgage lenders and broker's licenses were anticipated to bring in an additional \$400,000. Projected total revenue from check cashiers was to be \$60,000. And in the areas of money lenders and consumer sales finance companies, approximately 11 licenses were expected to be issued, resulting in \$9,896 in anticipated revenue for FY 2002. The projected revenue from mortgage foreclosures were to be approximately \$300,000. With regard to depository institutions DBFI has plans to charter 2 new commercial banks and one international bank, with a planned revenue of \$16,000. The new Trust Company Act implementation was expected to add \$50,000 in revenue. DBFI planned to charter one credit union in FY 2002 resulting in a projection of \$3,000 of revenue. In addition, DBFI planned to carry over approximately \$500,000 in previously earned revenues. In conclusion, DBFI's total projected revenue for licensing, chartering, and examination activities during FY 2002 was \$2.5 million.

Contrary to DBFI's FY 2002 projections, DBFI's actual revenue in FY 2002 was \$1,886,240.¹² Specifically, during FY 2002, DBFI's actual revenues for the licensing and renewal fees generated by the Mortgage Lender and Broker Act of 1996 were \$923,737. The FY 2002 actual revenue from check cashiers was \$27,325. Revenues from licenses issued or renewed in the areas of money lenders, auto and consumer sales finance companies were \$17,876. The money transmitters area actual revenues were \$30,408. With regard to depository institutions, DBFI actual revenues in additional depository fees were \$0. In the "Other" revenue category, DBFI actual revenues were \$3,339 in late fees, \$2,600 in licensee lists, \$4,700 in enforcement penalties, and \$141,706 in accounts receivable. In addition, DBFI received \$742,588 from the Deputy Mayor of Economic development because the department was unable to raise the needed revenue. In conclusion, DBFI's total actual revenue for licensing, chartering, and examination activities during FY 2002 was \$1,143,652, for a total of \$1,886,240 upon factoring in the Economic Development funds.

Moreover, the Chief Financial Officer for the Economic Development, Henry Mosley, testified before the Committee on Consumer and Regulatory Affairs on March 27, 2003, that DBFI was only able to partially fund its budget in FY 2002. The Budget was reduced to \$1.9 million because DBFI was only able to raise \$1.1 million. Mr. Mosley further stated that the problem is that DBFI's budgets are set too high and the revenues simply do not support its functions. Councilmember Ambrose inquired into whether it would be unrealistic to set the FY 2004 budget at such levels. Mr. Mosley responded that DBFI's budget should not be set so high. With the operating budget set at \$2.4 million, a failure to collect revenues will put the budget at deficit.

While DBFI's FY 2004 projection of \$2,424,786 in revenues may appear reasonable to the Department of Banking and Financial Institutions, a close and financially responsible examination of the agency's previous projections and actual revenues over the last 2 fiscal years cause this Committee to seriously doubt the accuracy and reliability of the Department's present budget estimate. The Committee does recognize that DBFI's work in the area of financial education, outreach, and consumer protection is important. The Committee, however, opines that DBFI's should be able to live within the means that the revenues from such work can actually support. The District, particularly in its current state, cannot afford to support this agency with any money from the General Fund should the FY 2004 projections fail again. **The Committee directs the Department of Banking and Financial Institutions to revisit its budget request and reconsider the weight to be given to the Department's previous actual revenues, an average of \$1.5 million per fiscal year, in its calculations. The Committee initially proposed limiting this agency's budget to no more than \$1.5 million, given its track record in the collection of revenues. At the April 15, 2003 Committee markup, a motion was made by Councilmember Brazil to approve DBFI's originally proposed budget authority of \$2.4 million and 27 FTEs. The motion passed. Councilmember Catania then made a motion to cut DBFI's request for 27 FTEs by 2 and approve only up to 25 FTEs. The motion passed. Thus, the Committee has approved a DBFI FY 2004 budget of \$2.4 million and 25 FTEs.**

In addition, the Committee directs the Department to submit to the Committee a monthly report detailing their revenue flow and explaining how it relates specifically to its expenditures.

¹² Although DBFI posted FY 2002 actual revenues of \$4.3 million, that figure is reduced to \$1.8 million upon the subtraction of \$2,472,000 in Charter School Credit Enhancement DBFI was charged to disburse as a pass-through, but not actually collect as revenues.

This report should include a breakdown of exactly how the revenue is generated, stating which industry participants pay dues and fees to the Department.

FY 2003 Capital Budget

There are no FY 2003 capital budget proposals for the Department of Banking and Financial Institutions.

Committee Budget and Oversight Hearing

The Committee held 2 hearings regarding the operations of DBFI. The first was a performance oversight hearing held on February 13th, 2003. The second was a budget hearing on the FY 2004 Budget and was held on March 27, 2003. In preparation for both hearings, the Committee submitted questions to DBFI for its responses together with its written testimony. (*See* Appendixes 2 and 4). The Department also prepared written responses to questions raised by Chairperson Ambrose at the hearing.

Theresa Bollech testified on DBFI's performance at the February 13th, 2003 Performance Oversight Hearing. Ms. Bollech testified that DBFI strung her along for a year, requesting several documents, only to find out that they could not help her given their lack of jurisdiction over federally regulated banks. In addition, DBFI staff were unable to refer Ms. Bollech to a District agency to handle consumer complaints. Ms. Bollech stated her disappointment in DBFI, the purpose of which is lost upon her. Ms. Bollech asked whether this agency was created to simply run up a log that will look good for a report on how understaffed and resource needy it is. Ms. Bollech further inquired whether District tax dollars would be better spent elsewhere given that there are no state banks chartered in the District.

Councilmember Ambrose responded that the DBFI actually pays for itself through fees that are charged through those areas of financial institutions over which they do have jurisdiction, although those fees could be used somewhere else. DBFI does not have a lot of authority. At the very least the Department should be able to refer citizens to another agency.

DBFI Commissioner S. Kathryn Allen testified that DBFI had a very successful year during FY 2002 by meeting 94% of its performance goals. During the remainder of FY 2003, DBFI will continue to build on those successes. Commissioner Allen reported that DBFI's licensing process during FY 2002 became increasingly more efficient and streamlined. In respects to the 45-day processing goal for licensing, DBFI improved from 45% in FY 2001 to just under 80% in FY 2002 as a result of redesigning the process, implementing a staggered licensing procedure, and by increasing staff from 4 FTEs in FY 2001 to 6 in FY 2002. Commissioner Allen stated that DBFI completed 300 examinations of District based financial institutions in FY 2002. DBFI also improved and formalized its complaint and procedure processes by improving forms and by assigning a staff member with legal background to oversee the complaint process. With regard to enforcement activity, DBFI established the program during FY 2002 and has since initiated actions against a number of mortgage companies for an array

of statutory licensing violations.¹³ In addition, DBFI recovered \$3,000 for a District resident and another in \$3,000 for late fees and other enforcement costs.

Commissioner Allen further reported that during FY 2002, the District became part of one of the largest consumer protection settlements in the history of the United States. In that case, District residents complained that Household Finance Corporation engaged in improper lending practices such as loan splitting, improper disclosures, equity stripping, improper interest calculations, prepayment penalties, and inaccurate good faith estimates. On December 16, 2002, the District entered into a formal settlement through a consent judgment executed by DBFI and the Office of Corporation Counsel, with \$233,301 allocated to the District.

Commissioner Allen testified that during FY 2002 and FY 2003, DBFI's other accomplishments were: 1) Conducting activities to foster revitalization of housing in emerging neighborhoods; 2) Identifying several new qualified CRA investment opportunities including Capital City Ventures, LP.¹⁴; 3) Developing policies and procedures for the establishment and operations of the Mayor's Economic Relief Loan Fund¹⁵ for businesses affected by the September 11th attacks; 4) Continuing to collect information on the 22 banks operating in the District through Bank Community Reinvestment Act (CRA) profiles; 5) Promulgating proposed and final rules to implement the Opportunity Accounts Act of 2000¹⁶; 6) Strengthening the Credit Enhancement Grants program for public charter schools¹⁷; 7) Partnering with non-profit community advocacy and housing services organizations to extend the reach of affordable lending and home ownership to every working person; 8) Participating in a total of 123 community events as well as implementing the Junior Super Savers Program to provide financial education to residents; and 9) Proposing legislation and promulgating the proposed and final rulemakings in the legislative arena to protect District residents.¹⁸

¹³ The Statutory violations include: 1) Fraudulent licenses; 2) Fraudulent bonds; 3) Operating without a license; 4) General violations of mortgage lending law; and 5) Operating in multiple D.C. locations with one license.

¹⁴ This fund was designed to provide investment dollars for early stage growth businesses. The fund began operation with an initial investment pool of \$1.7 million.

¹⁵ The fund extended credit to 38 affected businesses in the amount of \$6 million.

¹⁶ The Act authorizes the establishment of a savings program for low and moderate income residents.

¹⁷ To date, the Credit Enhancement Fund has awarded 6 grants to public charter schools. The amount of dollars expended from the fund was \$3,490,329.26. The amount of funds that were enhanced or enlarged by the Credit Enhancement Fund through private financing was \$12,090,000.

¹⁸ In FY 2002 and FY 2003, DBFI promulgated the proposed and final rulemaking implementing the Home Loan Protection Act of 2002. DBFI drafted and the Mayor transmitted to the Council, the Deferred Deposit Loan Act of 2002 to protect District consumers that use deferred deposits. DBFI drafted the Motor Vehicles Sales Finance Company Reorganization and Amendment Act of 2002, which transferred regulatory authority over car sales finance

Councilmember Ambrose stated that the Committee had received very basic complaints regarding forms for mortgage foreclosures and inquired into whether such had been revised. Commissioner Allen responded that the forms are revised on annual basis, the latest revision to be issued by the beginning of March, 2003.

Councilmember Ambrose then inquired into the Commissioner's knowledge of the matter raised by Ms. Bollech's testimony. Commissioner Allen responded that DBFI staff sent Ms. Bollech to the Office of the Comptroller and provided contact information on DCRA.

Councilmember Ambrose inquired into the status of the one bank chartered locally, Legacy Bank. DBFI Deputy Commissioner Al Elder responded that the DC Council approved Legacy as did the FDIC, and the process continues moving forward. Mr. Elder further stated that Legacy, however, is not yet established in the District and the FDIC approval expired in January of 2003. Councilmember Ambrose inquired into why DBFI claims the District is ripe for chartering new banks given that Legacy, the sole bank to attempt such, failed. Commissioner Allen responded that there currently 22 financial institutions in the District, some of which are interested in chartering locally.¹⁹

Commissioner Allen stated that DBFI has worked hard to provide incentives for financial institutions to charter locally and there are several laws which should further encourage them. Although the laws have been in place for a long time, they have not been enforced. **The Committee requests that DBFI submit a report on the legal advantages available to financial institutions that charter locally which shall include an analysis detailing the level of legal enforcement each advantage has received, whether through the court system or other legal proceedings.**

Councilmember Ambrose inquired into the status of the matter regarding Independence Federal and its role in what has been a most egregious scandal in the District. Commissioner Allen responded that DBFI does not want to jump to judgment on the matter until all the facts have been brought forward. Councilmember Ambrose then inquired whether perhaps the CFO and the Treasurer should also look into the matter. Commissioner Allen stated that DBFI would assist the Committee in including either or both.

Al Williams testified on behalf of the Ward 8 Business Council at the March 27, 2003 Budget Oversight Hearing. Mr. Williams testified that DBFI staff have worked hard to move forth discussions on the high fees assessed on residents at non-bank check cashing establishments. Mr Williams commended DBFI's past efforts and stated that he looked forward to the continuation of such efforts.

Ailue O. Gunter, Chair of the Ward 7 Association for Commercial Enterprise, Inc. (Ward 7 ACE) testified in support of the FY 2004 Budget requests by categories as submitted by DBFI. Chairman Gunter testified that DBFI should be granted its requests so that it can continue to render

companies from DCRA to DBFI.

¹⁹ In a March 3, 2003 letter in response to information requested by the Committee during the February 13, 2003 hearing, DBFI submitted a list of 3 financial institutions that it claims would be willing to convert to a District Charter. The institutions are Industrial Bank, N.A., Adams National Bank, and First Liberty National Bank. To date, none of the institutions have changed their charter.

and improve the services it has provide to Ward 7 ACE and other merchant's associations such as the Ward 8 Business Council. For example, DBFI assisted Ward 7 Ace and the Ward 8 Business Counsel in its efforts to organize community credit unions in every ward. The goal of these is efforts is to provide financial services for the unserved and underserved residents east of the Anacostia River and to all others in the metropolitan area, who for various reasons do not have access to basic services such as cashing checks. Specifically, the goal of the credit unions is to permit residents to cash checks and purchase money orders without being burdened by the high fees currently imposed upon residents without access to checking or savings accounts. Chairman Gunter testified that DBFI's funding for FY 2004 at the level requested would enable the Department to render greater services to the associations addressing said financial problems.

Randy Mersky, Chief Executive Officer of Global Express Money Orders, Inc., a Maryland nonbank financial institution regulated by DBFI, testified that Global Express provides money order and electronic bill payment services to District residents. Mr. Mersky stated that many of such District residents, for a variety of reasons, do not have access to banking services. Mr. Mersky testified that DBFI Commissioner Allen has been very helpful in including Global Express in discussions on how to improve access by District residents to such financial services.

Richard Hall, Executive Director of the Capital Area Asset Building Corporation (CAAB) testified on behalf of the non-profit corporation. Mr. Hall testified that DBFI has made progress in implementing the Opportunities Act of 2002 by adopting regulations and commencing the process to grant appropriate funds. The Act supports the creation and use of Individual Development Accounts (IDAs) for low and moderate income families and individual in the District. IDAs are matched savings accounts coupled with financial management training used for investment in high return assets such as first-time home purchases, post-secondary education or training, or start-up of a small business.

Mr. Hall testified that without support from the District government and DBFI, IDAs are at risk of shrinking or disappearing altogether in the District. CAAB has obtained \$600,000 in federal funding for IDAs, albeit under a federal law that does not allow use of any funds unless an equal amount of non-federal funds, either District or private, is used. Since the fall of 2002, CAAB raised \$125,000 in matching funds, \$10,000 of which were raised by DBFI and provided for 7 IDAs. Mr. Hall stated that CAAB is in the process of attaining another \$125,000 of private matching funds, and with the help of DBFI hopes to be able to match yet more federal funds during FY 2004.

Thomas Nida testified on his personal experiences with DBFI, specifically the Department's administration of the D.C. Charter Schools Facility Credit Enhancement Program. During FY 2002 and FY 2003, Mr. Nida worked with DBFI staff to complete the financing of facilities for several D.C. Public Charter Schools. Mr. Nida testified that DBFI made possible the financing of charter school facilities by providing timely and effective access to the credit enhancement funds it administers.

Andrea Elder, Community Reinvestment Act Officer, testified on behalf of Sequoia Bank. Ms. Elder testified that Sequoia Bank is a partner in DMFI's Junior Super Savers Club program. The program teams local banks with elementary schools in the District and encourages children to save for their future. As a partner, Sequoia Bank opens accounts for the 4th and grade students at Garrison Elementary, depositing \$5 into each account opened, and conducts financial tutorials for the students once a month. Ms. Elder testified that if DBFI is to continue to achieve its goal of providing financial

education to District students, it is imperative that the Council makes available the resources for it to do so.

Commissioner S. Kathryn Allen testified on behalf of the Department of Banking and Financial Institutions. Commissioner Allen testified that DBFI's plans for FY 2004 are to build upon the improvements DBFI has already made, including working to improve DBFI's performance in the depository and non-depository arenas, providing financial education programs, expanding the availability of capital credit, and promoting new financial services in the district. These programs and services will continue to be implemented as follows:

The Safety and Soundness Program handles licensing, financial institution examinations, financial analysis, and the investigation of depository and non-depository institutions. During FY 2004, the Safety and Soundness Program will strengthen its operations by conducting depository and non-depository examinations and increasing its enforcement activities. The program will assist federal regulatory agencies in the examination of state chartered banks such as BB&T, Suntrust, and Amalgamated Bank of New York. DBFI examiners will work with state bank examiners from North Carolina, Georgia, and New York and federal bank regulators in these activities.

The Financial Education and Outreach Program provides financial education services and information to residents of the District of Columbia so they can become better informed and competitive consumers of financial services. During FY 2004, the program will continue to provide basic educational opportunities through ward based workshops, forums, community fairs and seminars.

The Community Based Lending and Analysis Program provides community development strategies and capital access programs to residents and businesses to assist them with better access to financing for housing opportunities and business development. During FY 2004, the program will focus its efforts on: 1) Securing and increasing the capital investment dollars to the Capital City Venture Fund; 2) Streamlining the Credit Enhancement Fund Program; Implementing the Revolving Loan Fund that recently appropriated by the Federal Government; 3) Increasing the number of Financial Institutions participating in the DBFI programs to assist the District's effort to expand housing opportunities to low-to moderate income individuals; 4) Updating quarterly information on the 22 banks operating in the District through Bank Community Reinvestment Act (CRA)²⁰ profiles; 5) Securing funds for the Opportunity Accounts Program which authorizes the establishment of a Savings Program for low and moderate income residents; and 6) Supporting the Deputy Mayor for Planning and Economic Development's initiatives.

Commissioner Allen testified that DBFI has set 5 major goals for FY 2004 to improve its services and programs. The goals are as follows:

First, DBFI plans to protect District consumers from unfair and abusive trade practices by establishing a fair and equitable business arena in the District. To realize this objective, DBFI will: 1) Conduct 100% of targeted non-depository financial institution annual examinations; 2) resolve 90%

²⁰ CRA profiles provide a snapshot of each bank's institutional history, services provided, headquarters location, assets, stated primary focus of CRA activity, CRA rating and number of locations and ATMs in the District.

of complaints received within 45 days; and 3) Initiate enforcement actions within 5 days of identifying a violation of the Financial Institution Laws and Regulations. **The Committee requests a report on all of the bills that have been passed that effect DBFI and on the corresponding regulations that should also have been completed. Please submit this report, including the name of the legislation, whether or not there are regulations required, when regulations have been completed or when they will be completed, and if they have not been completed an explanation as to when that will occur. Please submit this report by the end of FY 2003.**

Second, DBFI plans to increase by 10 percent the number of financial education events conducted in a variety of settings such as school-based programs, financial workshops, fairs, and forums available annually.

Third, DBFI plans to impact on the development and revitalization of housing and commercial corridors in underserved communities and emerging neighborhoods through economic development and access to capital by: 1) Establishing a D.C. Capital Access Program to assist local banks in making loans for small minority and women-owned businesses; 2) Establishing a \$500,000 funded Opportunity Accounts Program to match savings from low-income families that can be used for home ownership and other approved purposes; and 3) Establishing an additional program to fully support DHCD's efforts to expand housing opportunities for low-to-moderate income individuals.

Fourth, DBFI plans to submit appropriate legislation to amend the Federal Banking Laws to change the District's Backup Federal Regulator to the Federal Deposit Insurance Corporation in lieu of the Office of Comptroller of the Currency by FY 2004.

Fifth, DBFI plans to increase the recognition of the District of Columbia as a national and international financial center by: 1) Chartering at least one commercial and one international financial institution; 2) Obtaining accreditation certification by the Conference of State Bank Supervisors; 3) Increasing the number of presentations to potential financial institutions and investor groups to promote the chartering of banks and financial institutions by 35%; 4) Increasing the number of marketing and educational materials developed and distributed to individuals and businesses by 35%; 5) Establishing a Bank Director's College; and 6) Integrating an online license application processing and payment function on the Department's website.

Councilmember Ambrose inquired into DBFI's role in credit enhancement for charter school facilities, in particular how the program works.

Commissioner Allen responded that the District received a fund of \$5 million 2 years ago and DBFI was given the responsibility of administering that fund. There are 36 schools that get funds from a local bank and if that bank needs credit enhancement then it can apply for credit enhancement with DBFI.

Councilmember Ambrose then inquired into why DBFI is not accredited by the Conference of State Bank Supervisors. Commissioner Allen stated that one of the criteria is the examination of chartered banks and DBFI cannot due such.

Councilmember Ambrose inquired into the goal of conducting 100% of targeted emanations, particularly whether there is an annual examination requirement. DBFI Deputy Commissioner Al Elder responded that the requirement is an examination once very 3 years.

Councilmember Ambrose inquired into the amount of DBFI's FY 2003 and FY 2002 Budgets, as well as 2002 Actuals. Henry Mosley, Chief Financial Officer, Economic Development Clusters stated that DBFI's FY 2003 budget was \$2,436,652, the FY 2002 budget was \$2,493,000 with expenditures of \$1,900,000.

Councilmember Ambrose stated that DBFI was set up to be a self funded agency. Councilmember Ambrose then inquired into whether DBFI was able to fund the FY 2002 Budget through fees collected. Commissioner Allen responded that DBFI did fund the FY 2002 Budget through fees. Chief Financial Officer Henry Mosley then stated that DBFI was able to partially fund its budget. The Budget was reduced to \$1.9 million because DBFI was only able to raise \$1.1 million. Mr. Mosley further stated that the problem is that DBFI's budget is set too high and the revenues do not support that, so the budget gets reduced.

Councilmember Ambrose inquired into whether it would be unrealistic to set the FY 2004 budget at such levels. Mr. Mosley responded that DBFI's budget would be higher. With the operating budget set at \$2.4 million, a failure to collect revenues will prohibit spending. Councilmember Ambrose inquired whether the FY 2004 budget was reduced from FY 2003. Mr. Mosley responded in the affirmative.

Councilmember inquired into who DBFI collects fees from. Commissioner Allen stated that DBFI collects fees from mortgage lenders and brokers, money transfers and ATM operators. Commissioner Allen estimated the total of ATMs at forty, but noted that they are hard to identify and locate. Commissioner Allen noted that DBFI will look into whether additional authority is needed to further identify more ATM operators.

Councilmember Ambrose stated her concern that while DBFI is providing commendable consumer protection services, the agency may will be able to bring in enough fees to support itself as a stand alone agency. Councilmember Ambrose further noted that although DBFI is anxious to see banks chartered in the District soon, such doesn't appear as though it will happen given the lack of an advantage in chartering locally.

Commissioner Allen responded that she was concerned by the Chairperson's viewpoint. From DBFI's standpoint, greater authority is needed to address issues with financial institutions given that DBFI does not regulate banks that offer services in the District. When DBFI has problems with a bank, it has to refer to federal authorities.

Councilmember Ambrose reiterated the lack of an advantage a bank has in chartering locally. It is a big disadvantage for a bank to chose the District given that oversight comes from the Department of Treasury in that instance and not the FDIC. Councilmember Ambrose recommended that DBFI continue to discuss this issue with local banks.

Councilmember Ambrose inquired into DBFI's office space lease, particularly its term and annual rent costs. Commissioner Allen responded that DBFI has a 10 year lease at \$227,000 annually.

Councilmember Ambrose stated that a hard look at DBFI's budget is in order. O type funds have been raided by from other agencies that have been able to do their part as self-funded agencies. DBFI does not appear to be one of the agencies that has done its part.

Commissioner Allen stated that DBFI changed over to O type funding with the understanding from the Committee's previous Chair that DBFI would get support to cover its budget. It was initially agreed that it would take several years for DBFI to be up and running on its own. Commissioner Allen further noted that DBFI has done a great job making up for this with a solid revenue increase over the past and by keeping out frills from the budget.

Councilmember Ambrose stated that DBFI is expected to be a self-funded agency, thus DBFI can maintain staff as long as it pays for it. There are no general funds for this agency and DBFI's budget numbers appear tight. It is not tight at DISR or ABRA, and like DBFI both are self-funded agencies.

FY 2003 Performance Measures

The greatest and most important challenge facing the Department of Banking and Financial Institutions in FY 2004 is setting realistic goals for the Department's operations, with a focus on maximizing revenue enhancement activities before increasing staff numbers or toehr expenditures. DBFI considers its most important challenge to be the chartering of a substantial number of financial institutions locally in the District. Currently, of the 22 financial institutions in the District, only one bank has enrolled in the charter process and only 3 others have expressed a possible intention to do so. This is an important, if not the most important, measure of the agency's performance because it questions the agency's very relevancy . If no financial institutions in the District which are now all federally chartered choose to change and charter locally, DBFI's role as an independent agency as a charterer and regulator will become too costly to continue as presently designed. **While DBFI's other activities in consumer protection and financial education are important, the Committee is of the view that such activities cannot continue to be the sole rationale for the agency's independent existence and sustenance. The Committee will continue to use the performance measures from its FY 2003 budget as a guide. The Committee also will create an additional performance measure that addresses DBFI's performance in the chartering process.**

VII. The District of Columbia Housing Authority

Background –

Public housing has been owned and operated in the District of Columbia by various entities since 1934. The first District of Columbia Housing Authority (DCHA) was established in 1994 to provide decent, safe, and sanitary housing to low-income residents of the District of Columbia. By all accounts, in the 1990's conditions at DCHA's public housing developments were deplorable. In May of 1995, Superior Court Judge Steffen Graae, after a year of review, took the extraordinary step of removing this distressed agency from the control of the Government of the District of Columbia. Judge Graae appointed a Receiver, David Gilmore, to improve the conditions at the D.C. Housing Authority. After 5 years of steady progress, Judge Graae ended the receivership. At the same time in May of 2000, a completely reconstituted District of Columbia Housing Authority, governed by a Board of Commissioners, was created through legislation, a new Board was developed, and new Executive Director hired to run the programs. While DCHA administers 2 major programs, public housing and housing choice vouchers, it is also undertaking ambitious efforts to transform its public housing stock through demolition and substantial rehabilitation.

Organization and Operations –

The District of Columbia Housing Authority (DCHA) is governed by a 9-member Board of Commissioners, each of whom serves a 3-year term. The Board was established on September 15, 2000 after the D.C. Council passed legislation establishing DCHA as a new, independent authority. Three of the Commissioners are public housing residents who are elected by residents. Four are nominated by the Mayor and are confirmed by the City Council. The Deputy Mayor for Planning and Economic Development is a member. And, the final commissioner is a labor representative named by the Central Labor Council. The Chairman of the Board of Commissioners at this time is Mr. Russell Simmons. On the 9-member board, there are 4 Commissioners whose terms will end on July 12, 2003. Three of these positions will be filled by election in May, 2003 by residents of public housing. One member will be appointed by the Mayor and designated as Chairman.

DCHA's Executive Director is Mr. Michael Kelly. He leads the Executive Staff and oversees day-to-day operations, according to the policy direction established by the Board of Commissioners. The Executive Staff is served by the Office of Audit and Compliance, the Office of the General Counsel, and the Office of Fair Hearings. Below the Executive Director and the Chief of Staff, there are 21 Senior Staff Executives who supervise a total of approximately 800 employees.

Operationally, DCHA is structured organizationally into 3 regions: the Anacostia Region, the Potomac Region, and the Rock Creek Region. All of DCHA's public housing properties fall into one of these regions, each of which is headed by a Regional Administrator. Client Support includes Client Placement, Resident Services, Public Safety, Public Affairs, and ADA/504 Compliance. Business Support includes the Office of Financial Management, Administrative Services, and Human Resources. Capital Programs includes the Development and Modernization Administration and the Office of Planning and Development.

The District of Columbia Housing Authority (DCHA) serves approximately 25,000 residents in public housing and another 25,000 through the Federal Housing Choice Voucher Program (formerly called the "Section 8" Program). Despite this extensive amount of assistance, there are still approximately 17,300 people on the waiting list for Public Housing and 26,000 people on the waiting

list for the Housing Choice Voucher Program. DCHA's 25,000 public housing residents live in about approximately 58 developments, including 18 buildings for senior citizens (serving about 5,000 seniors). In addition to providing subsidized housing to District residents eligible for public housing, DCHA maintains a police force for the protection of these residents.

Performance Oversight Hearings and Testimony –

DCHA's budget is derived completely from federal grants. Consequently, it does not request, or receive, any local appropriated dollars to fund any of its operations or programs. Thus, there is no line item for DCHA in the Mayor's budget request. Nonetheless, the Committee on Consumer and Regulatory Affairs, on behalf of the Council of the District of Columbia, maintains oversight over the DCHA.

The Committee held a Performance Oversight hearing on DCHA and its operations on November 14, 2002. At that hearing, Executive Director Michael Kelly and Mr. Lynn Cunningham, Vice-Chair of the Board of Commissioners appeared before the Committee to give testimony. In addition, during consideration of the Mayor's FY 2004 Budget Request this winter, DCHA was invited to testify at the Committee's Public Hearing on the Mayor's budget on March 21, 2003. At that hearing, Mr. Kelly and Board of Commissioners Chairman Russell Simmons appeared to give testimony and answer questions, as part of the Mayor's FY-2004 Budget Request Review.

The Committee thanks the Authority and the Board of Commissioners for their willingness to serve and their cooperation with the Council's oversight. The Committee also compliments the Authority on the manner in which it is conducting its core business: providing and managing housing that serves low income families. Being in a "service" business, DCHA is performing its mission in an ever-improving manner by serving those citizens who are unable to compete in the private market.

In his testimony at the Committee's November 14th hearing, Mr. Kelly noted that DCHA was serving approximately 10% of the District's population through its Public Housing and Housing Choice Voucher Program (HCVP), formerly known as the Section 8 Voucher Program. Mr. Kelly reported that DCHA has scored well under HUD's Public Housing Assessment System (PHAS). Under HUD's "Physical Condition" indicator, DCHA's score increased by 61% from last year. Based on their high score, HUD has advised DCHA that the Authority is now exempt from their annual inspection requirement. Only 24 large public housing authorities in the country have been granted this status. The "Financial Condition" score was 89.66%, a 35% increase over last year. The "Management Condition" indicator score was 93.33%. Overall, DCHA achieved a score of 87%, a 21% increase over last year's score of 72%. Mr. Kelly also reported that DCHA posted a 99.23% rent collection rate. Their comprehensive preventive maintenance plan also is providing impressive results. Public Safety has increased with a 3% reduction in crime. Mr. Kelly testified that DCHA served an additional 3,037 families under the HCVP during the past 2 years, with 1,807 of these having been served during FY-2002. DCHA also added over 270 new landlords to this program. Aggressive development programs have been initiated in non-Hope VI communities. And, DCHA efforts with development partners under the scattered site homeownership program are also progressing. Other accomplishments noted in Mr. Kelly's testimony were: Creation of a Youth Mentoring Program, Back-To-School events, Assistance with Access to Health Services, Implementation of the annual "Do Your B.E.S.T. Summer Youth Employment Program, Resident Council Training Sessions, An Annual Home Buying Fair, and Development of a non-profit entity, Visions, Incorporated.

Mr. Kelly presented similar testimony at the Committee's Budget Oversight Hearing on March 21, 2003. Mr. Russell Simmons, Chairman of the Board of Commissioners also testified at this hearing. Summarizing several benchmarks, Mr. Kelly and Mr. Simmons reported on DCHA's original 5-year Strategic Plan and its new 2-Year Update. While the original goals have remained, specific objectives have been revised based on certain budget realities and the needs of DCHA's clients. They stressed that one of DCHA's primary goals is to provide improved, affordable housing opportunities – a goal which is being addressed by the Authority's major redevelopment sites in Wards 6, 7, and 8. They gave a summary report on progress made at Henson Ridge, Capitol Gateway Estates, Kentucky Courts, Arthur Capper and Carrollsburg, and the Townhomes on Capitol Hill. They reported with regret that DCHA did not receive a HOPE VI grant from HUD for the Eastgate community. Mr. Simmons expressed grave concern regarding the forecast that the Authority may experience a significant budget cut of 10% from HUD in its operating subsidy. He also commented that the Board is continuing to pursue its 2 main themes: making DCHA a premier housing authority and nurturing a customer-focused culture.

In response to Mr. Kelly's and Mr. Simmons concern about the potential 10% reduction in DCHA's operating subsidy, Councilmember Ambrose responded that on February 25, 2003, she had written a personal letter to Secretary Mel Martinez, Secretary of the federal Department of Housing and Urban Development, expressing her regret that HUD had been unable to remedy a \$203 million shortfall in the FY-2002 budget. In the letter, she pointed out that relying on FY-2003 operating funds to fill the gap will only postpone the inevitable negative effect on the public housing program and those who depend on it. Councilmember Ambrose asked Secretary Martinez to take action to avoid the on-going problem of cutbacks by working with the Bush administration and the Congress to find the additional funds needed.

The Chairperson received a reply to her letter to Secretary Martinez, dated April 8, 2003, from William Himpler, Deputy Assistant Secretary for Congressional Relations, HUD, who indicated that he was able to assure the Councilmember that HUD had no intention of only funding PHAs (Public Housing Authorities) at 70% in FY 2003 (as she had thought was going to be the case), but that funding would be provided to PHAs at or near a 90% level by the first week of April. Mr. Himpler explained of a problem that had come to light. He noted that HUD's prior accounting system made forecasting and setting funding streams difficult, often leading to funding shortfalls. He went on to report that historically, HUD's practice had been to automatically dip into future years' appropriations to compensate for any shortfalls, but acknowledged that this is an unacceptable and irresponsible practice, which had been going on without the knowledge of Congress. Upon HUD's discovery and confirmation of this problem, HUD took action to inform the appropriations and authorizing committees of both houses of Congress of the practice and the resulting combined \$250 million shortfall for Fiscal Years 2001 and 2002. HUD has pledged to manage the Operating Subsidy program responsibly within its annual appropriations in FY 2003 and beyond. Secretary Martinez has directed the Office of Public and Indian Housing to develop and test a new accounting system to manage the operating funds so that HUD will be able to provide more timely and accurate funding to the PHAs. In January 2003, the Department notified PHAs that with fiscal years beginning January 1, 2003, they would initially receive operating subsidy funding at a minimum, temporary level of 70% of their prior year's eligibility. This notice indicated that a final level would be set in the spring. Upon receiving its FY 2003 budget, HUD has informed PHAs that it expects to fund PHAs at or near a 90% eligibility level. Moreover, Congress has given HUD permission to use up to \$250 million from its FY 2003 operating subsidy account to make PHAs whole for their FY 2002 operating subsidy payments.

Budget –

The FY-2002 budget for public housing was \$242,337,454. In response to the Committee's questions regarding this budget, DCHA noted that its FY-2002 report on revenue and actual expenditures is still being audited. Despite the fact that exact figures are not available, DCHA stated that based on past audit history, DCHA does not anticipate any significant deviations from its budgeted expenditure level. The FY-2002 audit is projected to be complete by June, 2003.

DCHA is anticipating a consolidated FY-2003 budget of approximately \$250,000,000. Department of Housing and Urban Development (HUD) approval of this budget is still pending. DCHA noted that HUD's delay in approving the Authority's FY-2003 budget is due in part to HUD's operating subsidy budget issues.

DCHA's FY-2004 budget is projected to be in the range of \$295,000,000, but since its budget submission is not due to HUD until June 30, 2003, it is still in the pre-planning stage of preparation. The amount of DCHA's consolidated budget is about \$250,000,000. HUD only approves the Authority's operating subsidy budget. Due to the loss of \$250 million in available operating subsidy funding for housing authorities nationwide, DCHA is anticipating a 10% reduction in its FY-2004 budget. For DCHA, this will amount approximately to a reduction of \$4.5 million.

Federal Funding Levels –

DCHA reported to the Committee that the FY-2003 HUD budget, which was approved by Congress in February, 2003, provides \$3.6 billion for the Public Housing Operating Fund. Congress authorized HUD to use \$250 million of this amount to cover the FY-2002 operating shortfall. As a result of this action, housing authorities with October 1st fiscal years – which includes DCHA – anticipate receiving their full operating subsidy for FY-2003, and only approximately a 10% cut of their subsidy for FY-2004. A 10% cut in DCHA's subsidy totals approximately \$4.5 million. Also, the HUD budget does not provide for any new "incremental" Housing Choice vouchers.

Once again, Congress did not approve any funding for the Drug Elimination Program. In the past DCHA has used its funding from this program, approximately \$2.6 million annually, to support its resident services and public safety force. Consequently, both of these programs have been incorporated into the authority's consolidated operating budget which has contributed to budget pressures.

Unlike its FY-2002 appropriations bill, HUD's FY-2003 bill did not include the discontinuation of the requirement that public housing residents engage in mandatory community service. Therefore, this requirement is assumed to be reinstated. Under its Moving to Work designation, DCHA may have the opportunity to request an exemption from this service requirement.

In its FY-2004 budget to the Congress, HUD included several proposals that would impact both the public housing and Housing Choice Voucher programs. First, HUD did not propose full funding in the Capital Fund which authorities use to maintain and repair their units. In lieu of full funding, HUD again proposed a public housing investment initiative that would allow project-basing of public housing units.

HUD also did not propose any funding for the HOPE VI program for FY-2004, although the Congress, in its FY-2003 budget, did extend HOPE VI for 2 years and funded it for 2003.

HUD also proposed block granting the Housing Choice Voucher Program and giving the funding to the States rather than to housing authorities. HUD states that this will “improve coordination between housing and TANF assistance.” Affordable housing advocates have voiced concern that such a move is meant to pass off additional costs of the program to the states, and question whether states have the capacity to assume responsibility for the program.

Tenant Assistance Program (TAP)

As in previous years, the only District-appropriated funds administered by DCHA exist as a result of a memorandum of understanding executed with the Department of Human Services for management of the city-funded Tenant Assistance Program ("TAP"). The DCHA committed to continue to manage TAP on the city's behalf with \$2,344,000 appropriated for FY-2003. This same amount has also been proposed in the FY-2004 budget. This amount, which is the same every year, is a pass-through amount from a Federal Income Assistance Program. It is included in the District's budget under the Department of Human Services line. These annual amounts are designed to cover rent subsidy payments for 4 remaining multi-year contracts which extend through September 30, 2003. Of these contracts, 3 will expire in 2004, and the 4th will expire in 2006. The Committee agrees that honoring these contracts is necessary, and that it is appropriate for DCHA to have entered into the MOU with the District's Department of Human Services.

Strategic Planning –

With the exceptional quality, quantity, and detail of the information provided to the Committee by DCHA in its updates to its "Toward Excellence, 3-Year Strategic Plan (Oct. 1, 2000 to Sept. 30, 2003)," its Development and Modernization Administration (DMA) "Building Excellence - FY-2000 Annual Report," its "Front Burner Reports," other documents, and in testimony, the Committee is extremely impressed with the organizational, planning, operational, and management expertise being exhibited by DCHA. The Committee thanks DCHA, its Executive Director, and in particular the 9-member Board of Commissioners for their dedication and service to the residents of the District of Columbia.

DCHA is serving the District well by establishing mixed income, diverse communities that are clean, livable, attractive, safe, and sustainable. Officially, DCHA's mission includes: assisting low to moderate income residents of the District, enhancing their quality of life, coordinating resources to help the residents, and improving their economic circumstances. The Committee finds it especially laudable that the Authority has adopted such a thoughtfully planned strategy for District citizens who will benefit from their efforts in the future.

DCHA's 3-Year Strategic Plan, which originally included 10 goals has accomplished a great deal and has built a solid foundation for the future. These goals (A through J) are still as follows:

- A - To achieve high-quality property management services that provide clean, livable, attractive, safe and sustainable ("CLASS") communities,
- B - To increase the number of quality, affordable housing units in the District,
- C - To increase housing opportunities for special needs populations,
- D - To increase the Section 8 resources and the quality housing choices available to eligible families,
- E - To create new opportunities to encourage resident self-sufficiency and self-determination,

- F - To insure effective public safety services for DCHA residents,
- G - To meet the highest expectations of the public housing industry,
- H - To achieve a level of capacity among the support functions of the agency, which enables the program functions to operate with excellence,
- I - To develop a Human Resources Environment that attracts, retains, and supports a competent, service-oriented staff and improves the work life of all staff,
- J - To establish practices which contribute to a healthy and sustainable environment.

Changing conditions and new opportunities, like the invitation DCHA received to participate in HUD's "Moving To Work" (MTW) Demonstration Program, has required that the plan be updated. Accordingly, the most recent update to the Authority's Strategic Plan, which was developed in October, 2002, covers the 2-year period from October 1, 2002 through September 30, 2004. Added to the original 10 goals are MTW initiatives and other adjustments designed to better address new challenges. DCHA continues to refine its plans to enhance opportunities for resident to achieve self sufficiency and self determination, to ensure public safety, to increase housing choices for low-income families, to attain excellence in all aspects of operations, and to further efforts toward creating wholly-owned business-like operating subsidiaries.

Unreported Income By DCHA Clients –

DCHA expressed its concerns regarding the under-reporting of income by residents of public and subsidized housing. But, in December, 2002, when the HUD Field Office conducted a review of DCHA's files to evaluate its rent calculation practices, it found the Authority's files to be in "excellent" shape. DCHA reported that HUD has hired an outside firm to conduct a nationwide study to measure the amount and sources of errors associated with tenant rent in the public housing and Housing Choice Voucher programs. The firm will be reviewing tenant files as well as conducting in-person interviews with a sampling of tenants. DCHA has already been contacted regarding this review.

Public Safety Initiatives –

DCHA reported that it has met several times with the Authority's Office of Public Safety, the Court Services and Offender Supervision Agency (CSOSA), and the Metropolitan Police Department (MPD) in a concerted effort to increase cooperation among these agencies. A Memorandum Of Understanding (MOU) has been developed outlining the responsibility of each of them. DCHA, MPD, and CSOSA have conducted probation violator inspections and are embarking on other joint initiatives.

Housing Choice Voucher Program –

Over the past few years, due to private owners opting out of long-term HUD contracts, the need for and availability of an increased number of individual vouchers has steadily increased. The number of people in the applicant pool, in need of housing, has also been on the rise. This is because as long-term HUD contracts which pertain to a whole building end, the number of individual applicants (and units) for which an individual voucher may be needed correspondingly rise.

A few reasons there is an increase in applicants and decrease in the number of available units are as follows:

- Rental housing is less available and rents are higher in low-poverty areas
- Fewer job opportunities
- Property owners and managers unfamiliar with Housing Choice Voucher Program
- Rise in cost of living in the District of Columbia
- Owners' and managers' screening practices
- Differences in race and ethnicity between participants and other tenants or neighbors may influence owner/manager decisions (discrimination)
- Participants often lack information about housing availability in unfamiliar areas
- Participants may have literacy issues or may lack "social navigation skills"
- Participants may lack familiarity with housing search methods or have limited shopping skills
- Participants' credit problems may be more salient because landlords screen tenants more carefully.

Although the factors noted above have impacted the growth in the number of applicants and decreased the number of available units, the District of Columbia Housing Authority has taken a proactive approach to ensure that the maximum number of families can receive Housing Choice Voucher assistance by:

- Sponsoring a "Housing Fair" in the DC Convention Center to promote the Housing Choice Voucher Program.
- Educating families about the value of housing mobility at family briefings
- Conducting landlord outreach (education and marketing about Housing Choice Voucher Program)
- Establishing exception rents in low-poverty areas
- Establishing a Landlord Advisory Committee
- Discussing negotiating agreements or MOUs
- Supporting family mobility
- Linking mobility efforts to family self-sufficiency, job training, and working participants
- Hiring Mobility Counselors
- Establishing a Homeownership Program.

DCHA's waiting list for selection to the Housing Choice Voucher program includes 26,198 persons and the list continues to grow. At the same time, the number of leased up units under this program has also increased. Attached is a bar chart that demonstrates the program's growth in since just October 2002. At that point in time, there were 7,870 units leased up; there are now more than 8,500 units leased up. DCHA's supply of new vouchers though is dwindling. In a departure from the past 5 years, the Congress did not approve any new incremental vouchers in its FY 2003 budget for HUD. DCHA is hopeful, though, that it will be able to acquire additional vouchers in replacement of some of its demolished stock.

ADA Requirements and Security Enhancements –

DCHA's initiatives to ensure the rehabilitation and modernization of its housing stock to meet the needs of District of Columbia residents, has continued, especially in those programs under its Development and Modernization Administration.

The Committee notes that DCHA, in an effort to be in compliance with the provisions of the American With Disabilities Act (ADA), has set a goal of completing the conversion of up to 324 existing public housing units into fully accessible units over a 3-year period, and the addition of 241 newly-constructed, fully-accessible units by the end of 2007. This 3-year period began in 2002. In addition, DCHA is including improvements in search assistance, marketing and reasonable accommodation for mobility impaired applicants to the Public Housing and Housing Choice Voucher programs. The Committee is pleased with the strides made thus far (detailed below) and urges DCHA to continue this effort.

Listed below are the name of each property, number of units, and bedroom sizes where wheelchair accessible units have been converted to date. The total number of units is 139. Also, listed is the location of the units scheduled for 2003 conversion distributed throughout the District in various developments.

<u>Property</u>	<u>Number of Units</u>	<u>Bedroom Sizes</u>
Harvard Towers: 1845 Harvard Street, N.W.	3	One Bedroom Two Efficiencies
Lincoln Heights: 400 50 th Street, N.E.	3	One Bedroom Two (2) Bedrooms
Knox Hill: 2700 Jasper Street, S.E.	7	One Bedroom
Potomac Gardens: 700 12 th Street, S.E. 1229 G Street, S.E.	25	One Bedroom
Garfield Terrace: 2301 11 th Street, N.W. 2369 11 th Street, N.W.	9	Eight (1) Bedrooms One (5) Bedroom
Sibley Plaza: 1140 N. Capitol Street, N.W.	13	Eight (1) Bedrooms Five (2) Bedrooms
James Apartments: 1425 N Street, N.W.	9	One Efficiency Eight (1) Bedrooms
Judiciary House: 461 H Street, N.W.	22	One Bedroom
Barry Farms: 1230 Sumner Road, S.E.	5	Two (2) Bedrooms Two (3) Bedrooms One (4) Bedroom
Greenleaf Gardens: 203 N Street, S.W.	8	Eight (2) Bedrooms
Carroll Apartments: 410 M Street, S.E.	10	One Bedroom

Kenilworth Courts:		
4500 Quarles Street, N.E.	9	One (3) Bedroom Eight (4) Bedrooms
Langston Addition:		
2101 G Street, N.E.	2	Two (3) Bedrooms
Regency House:		
5201 Connecticut Avenue, N.W.	4	Three Efficiencies One Bedroom
Wheeler Creek:		
900 Varney Street, S.E.	10	One Bedroom

TOTAL NUMBER OF UNITS: 139

The remainder of the minimum required 108 units for 2003 are distributed throughout the District at the following developments:

Garfield Terrace	Greenleaf	Regency House
Potomac Gardens	Sibley Plaza	LeDroit Apartments
Horizon House	Kenilworth Courts	Wade Apartments
Hopkins Apartments	Benning Terrace	Harvard Towers
Stoddert Terrace	Park Morton	Fort Lincoln
Montana Terrace	Lincoln Heights	

DCHA Police Department (DCHAPD) –

DCHA advised the Committee that its police force continues to work aggressively to ensure public safety within the boundaries of public housing communities. With regard to training, experience, and proficiency, DCHA has explained that each Public Safety Supervisor and 14 of DCHA's sworn officers are 20-year-plus veterans of the MPD. They bring a wealth of police knowledge and experience to DCHA's community.

The DCHA Police Department's Sworn Police Officers and Special Police Officers are all graduates of the Metropolitan Police Department's Institute of Police Science (the MPD training academy). DCHA's sworn officers have concurrent jurisdiction with MPD officers and receive the same curriculum at the academy as MPD officers. In conjunction with MPD, DCHA developed an 11-week training program, specifically for its Special Police Officers. They have full authority on the property to which they are assigned. The Housing Authority's Special Police Officers receive better training than any special police officers in the entire country.

In fact, on January 23, 2003, the *USA Today* front page story covered the training of Special Police Officers in all 50 states and the District of Columbia. The conclusion of that study was that of the nation's approximately one million special police officers, most are unlicensed, untrained, and not subject to background checks; in fact, most receive between zero and 48 hours of training to become Special Police Officers. In contrast to these other Special Police Officers' lack of training, upon completion of their graduation, DCHA officers' training does not stop. They are required to attend In-Service Training bi-weekly where they are updated on changes in the laws, policy, and procedures. They also are required to report to the Police Academy once- a-year for firearm re-certification. DCHA is constantly seeking and applying for grants for its public safety department.

Recently, the Authority was awarded a Department of Justice Cops Grant to hire 10 additional housing police officers. The DCHAPD has also been awarded a Block Grant to conduct high visibility patrols and other Community Policing activities on DCHA properties. Funds were also included in this grant to purchase bicycles, body armor, and police radios.

The Public Safety Office is authorized 44 sworn police officers, 66 special police officers and 40 resident monitors, all of which are available for duty. Resident monitors are public housing residents who have the responsibility to sign guests in and out of DCHA's senior buildings. There is a training program to acclimate the residents to the workforce. This program has been very successful, in that, several of the monitors have been able to obtain full-time employment within the agency, in private industry, and at other government agencies.

Voluntary separation from the DCHAPD has recently leveled off. In an effort to further reduce the turnover rate, all new police and special police officers sign a 2-year service obligation agreement. During the last 8 months, DCHA has not lost any officers to other departments.

The Committee concurs with DCHA's belief that the DCHAPD should remain separate from the MPD. Currently, the DCHAPD augments the MPD by providing 24-hour coverage for DCHA's 19 senior buildings. In addition, sworn officers are assigned to high-visible patrol duty at DCHA's most active developments. They also respond to radio assignments by the MPD dispatcher. As a result, they are able to conduct constant preventive patrols to keep out those individuals who might cause problems for public housing residents. People who live in public housing and the community at large have a perception that public housing communities are crime-ridden, but since the inception of the DCHAPD, crime has steadily decreased and the residents are less fearful of crime in their neighborhoods. Recently, the DCHAPD conducted a survey of the residents regarding how safe they felt in their homes as a requirement of the Public Housing Drug Elimination Grant Program. The results of the survey showed that the residents seem to be extremely happy with the presence and performance of the DCHAPD.

Resident Councils –

DCHA monitors and works closely with its 47 Resident Councils to ensure that they are operating effectively and serving the needs of public housing residents. Each Resident Council's performance is assessed by monitoring its overall activities in relation to the requirements mandated by HUD and DCHA. Specifically, Resident Councils are expected to conduct regular Executive Board Elections, monthly General Body and Executive Board Meetings, have regularly scheduled office hours, advocate for residents and implement a variety of self-sufficiency programs.

DCHA provides ongoing technical assistance and training to the Resident Councils in an effort to build their capacity and enhance their ability to adhere to their requirements. DCHA conducted a Resident Council Leadership Retreat in November, 2002, which provided Resident Council members with the skills necessary to transform their tenant organizations into small businesses with the capacity to raise funding to facilitate ongoing self-sufficiency programs. The retreat also focused on the creation of an Interim City-Wide Advisory Board. DCHA is currently providing additional, specialized training to individual Resident Council members that focuses on establishing Councils as non-profit organizations and obtaining 501(c) 3 tax exempt status from the Internal Revenue Service.

HOPE VI Projects –

DCHA has developed a comprehensive relocation plan to fit the unique needs of each community associated with a HOPE VI project. These relocation plans follow HUD regulations and guidelines which require early and frequent notification that relocation will be necessary. This notification is accomplished through letters mailed to every head of household, based on a schedule determined by HUD. In addition, community meetings are held during the planning process and throughout the implementation of each HOPE VI project. Resident involvement is sought in all stages of planning and project implementation. Residents participate on the various committees and subcommittees assigned to multiple aspects of each project.

A DCHA staff person or agent works closely with each relocated family or individual to ensure their successful relocation to another DCHA public housing development or to another location through the Housing Choice Voucher Program. DCHA is responsible for covering all reasonable costs associated with moves to or from the site undergoing redevelopment.

Re-entry criteria is developed in consultation with the residents of the HOPE VI site and typically covers such things as criminal background checks and credit history. As a requirement of the program, every HOPE VI plan includes a Community and Supportive Services Program (CSS) designed to meet the unique needs of the individual community. Such programs are developed after a comprehensive needs assessment of all families impacted by the redevelopment has been conducted. CSS plans provide for economic development and self-sufficiency programs, such as job training and placement, GED classes, business development and home ownership opportunities. Additional support services include day care, transportation, violence prevention, after school programs for youth and medical services for elderly residents. A case management program is in place throughout each HOPE VI process to maximize the ability of individuals to benefit from the CSSP, with the primary goal of the CSSP to ensure the future success of residents whether they return to the redeveloped community or not.

Scattered Sites –

DCHA reported to the Committee at its oversight hearing in November, 2002, that it has a tiered plan for the units that remain in its scattered site portfolio, which includes partnerships with non-profit developers, the City, and the direct transfer of units to public housing residents. DCHA provided the Committee with an update on the units that were transferred to various non-profit developers for rehabilitation and sale. DCHA's subsidiary, D.C. Housing Enterprises, remains on schedule to complete the 6 units under its charge by June, 2003. Demolition work at these units was completed last year, and construction is underway. DCHA is continuing the implementation of its own 5(h) home ownership program, and, to date, 19 units have been sold to former public housing residents. DCHA is also continuing its collaboration with the City.

Historic Preservation –

DCHA has one historic property in its inventory. With encouragement from Councilmember Mendelson and since Mr. Kelly's appointment as Executive Director, the Housing Authority has increased its awareness and appreciation of the historic aspects of Langston Dwellings. The age of the buildings at Langston Dwellings presents significant challenges in the areas of general maintenance and capital repairs. Through the life of this particular property, relatively little capital work has been

performed, with the notable exception of the modernization of its heating plant. The buildings are in need of substantial rehabilitation; however, funding on the scale required is not available.

A continuing issue has been the stringing of cable on the exterior of the buildings by the local cable company to provide cable service to residents. At present the cable company (usually its subcontractor) attaches coaxial cable to the exterior of the building, and then drills through the exterior of the building to bring the cable into the individual apartment unit. There is universal agreement that this results in an unsightly appearance as well as damage to the exterior of the building. DCHA's Office of General Counsel has contacted the District's Office of Historic Preservation and is presently in the process of developing a multi-party Memorandum Of Agreement (MOA) between COMCAST, DCHA, and the Office of Historic Preservation to establish parameters and procedures for future cable installations. Ultimately, properly cabling the building must be part of a larger effort to renovate the interiors of the buildings. When that occurs, interior chases will be designed to accommodate cable installation, and other infrastructure needs that were not envisioned when the buildings were constructed many years ago. DCHA has indicated that it fully recognizes that Langston Terrace is historically significant to the District of Columbia and to the country as a whole. DCHA has indicated that it plans to balance the challenges of maintaining this property against its financial limitations. As they look to the future, DCHA will explore every possible creative financing alternative to fund needed renovations.

The agency is currently disposing of a number of scattered site units. In preparation for the disposition of these units, usually through the DCHA Home Ownership Program, the District's Homestead Program or the Home Again Initiative, information about the properties is communicated to the District's Office of Historic Preservation for review. In the event that any of these properties are deemed historic, conveyance includes information regarding historic site preservation requirements.

Drainage Issues –

There has been some misunderstanding with regard to measures taken to address both ground water and water run-off at Wheeler Creek. Site work costs represented \$11.8 million of a \$54 million development. These costs included the installation of a new storm water management system replete with new storm-septors, sand filters and water retention ponds. Indigenous to the site, and one of the more difficult issues to remediate, is ground water generated by an indeterminable underground source. Unfortunately, the recurrence of such a problem manifests with the passage of time. DCHA has reported that the homebuilder has corrected all warranty issues related to individual homes. Subject to available funds, the developer and DCHA will regrade and construct new drainage channels on the site before the project is contractually closed out.

Requirements for Additional Legislation –

Chairman Simmons of DCHA's Board of Commissioners and Mr. Michael Kelly, Executive Director, reported that they have been discussing issues related to current laws and regulations, but have not yet determined whether to request new legislation this year. They advised that once the Board has finalized its recommendations, if there is a requirement for any new legislation, a proposal will be communicated to the Chair of the Committee.

Summary –

The Committee commends DCHA and its staff on their achievements during the years since the new Authority was legislatively newly created. DCHA has continued to be responsive to citizen requests for service and for information. It has been the Committee's continuing experience that whenever a problem is brought to the Authority's attention, the Board Chairman, the Executive Director, and DCHA's staff have done their best to deliver the service, solve the problem, or provide the information. The Committee enthusiastically supports the Authority's continued success with its HOPE VI projects, which have resulted in the award of millions of federal (HUD) dollars, and which stand to leverage twice that much in investment.

The Committee applauds the Authority's efforts to invigorate its Resident Councils and encourages DCHA to continue to support and listen to its resident panels and committees, as well as citizen groups in neighboring communities. The Committee is pleased that Regional Administrators and Resident Managers are maintaining an intimate familiarity with the concern of DCHA's clients, especially as voiced through representative bodies.

The Committee would like to note again this year that the Mayor's Neighborhood Service Coordinator in each Ward has been working diligently throughout FY-2003 to forge an Inter-Agency Core Team to ensure an integrated, multi-agency approach to problem solving. The Committee continues to believe that the Authority, as the District's largest landlord, has an important role to play in this regard. Neighborhood issues, concerns, and problems do not stop at the boundary of any DCHA public housing development or at the property line of a house occupied by the recipient of a Housing Choice Voucher. As part of DCHA's efforts to serve neighborhood residents in surrounding communities, the Committee again encourages the Authority to assign a representative to the Core Team in each Ward where DCHA has a public housing community or in which residents are using HCVP vouchers. The Committee believes an Authority representative will provide a constructive perspective to the Core Team and the broader neighborhood issues surfaced at Core Team meetings.

VIII. COMMITTEE REASONING, RECOMMENDATIONS, AND DIRECTIVES

Based on the discussion contained above, the Committee on Consumer and Regulatory Affairs makes the following recommendations and directives with respect to the agencies under the Committee's purview:

A. Agency Directives

1. With respect to DCRA:

The Committee on Consumer and Regulatory Affairs happily recognizes the new \$4 million, but has some concerns about the Mayor's long-range planning for funding this ongoing need. DCRA has indicated to the CFO that it has the capacity to use at least \$6.4 million each year on these activities; thus, the Nuisance Abatement fund would be adequate for operations in FY 2004. It is a one-year fix, however. The fund is a revolving fund, and while DCRA has improved its ability and capacity to collect on liens it has placed on violators, collecting the full amount due is arduous and not always very successful against deadbeat property owners. Moreover, vacant property registrations under a new law that requires these to be filed have been coming in more slowly than anticipated. The fees from these registrations are to go into the Nuisance Abatement fund, but for the present, it is more likely that regular infusions of other new funding will continue to be required. The Committee directs that the agency and Deputy Mayor continue to watch the need for funding in the Nuisance Abatement fund and plan for FY 2005 and beyond.

The Committee approves the proposed capital project to establish a real property database. As it did last year, it directs the Department to ensure that in preparing this database that attention is paid to truly standardizing the method by which the District government, across all Departments, refers to a particular address to avoid the inconsistencies that occur at present. The Committee directs the agency in developing its plan for this database to continue to work with the Chief Technology Officer, the Office of Tax and Revenue, and other executive offices to ensure that a systematic check is regularly made to prevent the misuse of tax exemptions and reductions meant for qualified taxpayers but which could inadvertently be provided to owners of real property (and taxpayers) who no longer qualify for the exemption or reduction when the property is vacant.

In addition, the Committee urges the agency to ensure that development of this real property database takes into account the needs for record keeping improvements in both the Housing Regulation Administration, particularly the Rent Administrator's office, and the Building and Land Administration, particularly the Office of the Zoning Administrator. These were both areas that require improvement, according to prior public witness testimony. The Committee approves this capital budget project.

The Committee requests the agency to work with the rest of the Executive to determine how to preserve these positions in light of the falling revenue stream. In particular, the NSP and BLRA organizations need to be analyzed to see how to better manage these crucial functions.

The Committee is very concerned about all of these and the other vacancies at DCRA, especially positions like inspectors and investigators. We do not want to lost the momentum of the last few years in improving compliance and enforcement activities.

The Committee believes that added focus will be needed in the years to come on programs involving building and land permitting activities, rental and other housing concerns, nuisance property abatement activities and the management of vacant property, zoning administration issues, third-party inspections and review processes, and business licensing and registration operations.

The Committee is very pleased with the creativity shown in the development of these vans to bring the agency out into the community.

Mr. Clark shared that DCRA would be adopting a new performance measure for issuing building permits by ensuring that customers with non-complex building permit applications would be processed in 7 working days. Testimony has been received by the Committee that indicates that this will be a welcome goal to achieve.

The Director of DCRA also spoke to expanding DCRA's methods to address quality of life issues by sharing his plan to form an "illegal construction program" in the next few months to proactively find and stop illegal construction that occurs throughout the city. The Committee is aware that this idea sprang from suggestions from a resident who operates a construction business and who has long suggested this kind of enforcement activity to the government. The Committee agrees that this is a welcome plan.

The Committee would like a full report on whatever changes are being made to this planned realignment, given the recent resignation of the Zoning Administrator and the hiring freeze at the agency.

The Committee would appreciate an analysis being conducted by the new BLRA Administrator by the end of FY 2003 of a comparison of permit fees in the District with those of surrounding counties. The Committee also requests a plan from the new Administrator in the same report for development of staff to address the issue Mr Strong raises.

The Committee requests that the new BLRA Administrator conduct a top to bottom analysis by the start of FY 2004 to address these issues and share his plan in a report to this Committee.

The Committee agrees that keeping processing time down for both permitting and inspections is critical to allowing the District to maintain its economic growth. Also, the Committee wants to particularly commend the Development Ambassador Program and agrees with the witnesses who have praised this program over the years. The Committee would like to see this program expanded.

The Committee directs the agency to determine how to more fairly charge for permits to allow developers – particularly smaller and not-for-profit developers and individuals – to benefit from the ability to use 3d party inspection without this kind of penalty. Also, the Committee directs the BLRA to determine how it can better and more flexibly adjust its need to schedule inspectors' time against the realistic demands of construction.

The Committee concurs with both the praise and criticism in the DCBIA's remarks. In particular, given the current level of vacancies in BLRA, the agency will be hard pressed to continue to improve in this area without a game plan. The Committee requests the agency to

report back upon its adopting the 7-day permit turnaround category the DCBIA has suggested for intermediate projects. We have already asked the agency to address the negative impact on the smaller and not-for-profit builders. Finally, the Committee directs the Director and the BLRA Administrator to share their plans for this area of the agency by FY 2003's end – how the vacancies will be dealt with, training that will be provided, and how the functions in BLRA will be improved.

The Committee would refer the Director and BLRA Administrator to some the Committee's earlier comments and directives in this report and bear the citizen's comments in mind in preparing their replies.

Hiring and training the full complement of NSOs is an important goal. The Chair of the Committee is most concerned about vacancies in the inspector ranks. As the budget is currently presented for this agency, there are not sufficient funds identified to fill all the vacancies at the agency. This Committee will be most eager for assistance in filling vacancies in the inspector and investigator positions.

The Committee believes the Mayor needs to provide DCRA's staff the equipment, training, and personnel management necessary to complete their mission. The Committee believes that the current DCRA management agrees with this need and is taking appropriate steps to ensure sufficient personnel and nonpersonnel resources for deployment.

RAPIDS can be expanded for the use of the Building and Land Administration as well in the future. The Committee believes this is a worthwhile investment and requests the agency to continue to provide quarterly written progress reports, starting at the beginning of the fiscal year 2004, as the agency moves forward with continued implementation and possible future expansion of this tool. The reports also should indicate how much training is being provided to inspectors, particularly in the nature of cross training.

Director Clark at the Committee's Budget Hearing in March that indicated that the agency was not getting the level of compliance with the new law creating a vacant property registration requirement that they wanted. DCRA may wish to recommend an increase in fines that they would be authorized to levy for noncompliance in order to obtain better compliance.

That said, it remains the sense of the Committee that ever more efficient abatement of nuisance properties and proactive enforcement of the housing and building codes should be a priority, including more effective use of NSOs, for the agency in FY 2004.

The Committee Chair noted that she wanted the agency to explore how it could fund and manage a tenant advocate operation to assist tenants and tenant associations much earlier in the petition process than is now the case.

The Committee accepts the Mayor's Budget Support Act recommendations and strongly encourages DCRA to continue to proceed and to report on its transition plans for the abolition of the Commission. The Committee directs the agency to stop sending any new cases to the RHC from now on and to immediately start to share with tenants and landlords with cases before the Rent Administrator what the next steps will be.

The Committee, therefore, strongly encourages DCRA to consider developing a tenant advocacy program within its current structure.

The Committee expects neither the Rental Housing Commission, nor the Office of Adjudication to be accepting any new rental housing cases in light of the abolishment of the RHC and the removal of those cases to the courts.

The Committee requests that the agency share, in priority order, its plans for accomplishing these improved enforcement tools. In particular, the Committee would like to start with the last suggestion of eliminating redundant and multiple notices of infractions. The Committee would also like to see whatever transition plan exists whereby the Office of Adjudication is shifted to the Office of Administrative Hearings by the start of the next fiscal year.

The Committee has just moved legislation to completely rework the Master Business License program by eliminating the MBL and greatly simplifying the procedures. In so doing, the Committee determined that the District needs to do a top to bottom review of the businesses that will be known as Licensed Businesses, particularly reviewing and justifying the fee structures set for different licenses for different businesses. The Committee would like to see this review accomplished by the end of second quarter of FY 2004.

The Mayor's budget proposal for DCRA envisions a transfer of \$180,000 and 2 FTEs. The Committee approves this transfer from DCRA. Any additional needs of the SEO for the ELC must come from other sources.

The Committee requests a report on all bills that have been passed in the past 5 years that affect DCRA and on the corresponding regulations that should also have been completed. Please submit this report, including the name of the legislation, whether or not there are regulations required, when regulations have been completed or when they will be completed, and if they have not been completed an explanation as to when that will occur. Please submit this report by the end of FY 2003.

2. With regard to the Alcoholic Beverages Regulation Administration:

The Committee strongly recommends that regulations from ABRA and the ABC Board that include an increase in fees be submitted to the D.C. Council by April 30, 2003.

The Committee strongly recommends raising ABRA fees as provided by the proposed ABC regulations.

The Committee on Consumer and Regulatory Affairs approves the FY 2004 budget of \$3,016,000, for the Alcoholic Beverage Regulation Administration, as it is presented by the Mayor.

The Committee looks favorably upon the Board's progress on the proposed regulations and strongly urges that the process be finalized without undue delay. The Committee would like to receive an addendum detailing the number of meetings, public hearings, and geographic breadth of participation throughout the city involved in the proposed rulemaking feedback process.

The Committee commends the appointment of Maria Delaney as Director of ABRA.

The Committee requests that the Board submit all drafts of and memoranda or proposals on the personal-use permit legislation for the Committee's consideration.

The Committee commends Board's efforts to include broad participation and input into its regulation drafting process. The Committee will ask the Council to be mindful of such efforts when the regulations come before it for review.

The Committee strongly recommends raising the fees by approximately 30% as proposed in the forthcoming regulations.

3. With regard to the Department of Insurance and Securities Regulation:

The Committee agrees with the Board that there is the possibility of conflict regarding the investigation of refusal to pay insurance claims in health care situations and that this issue needs to be addressed as quickly as possible after the budget has been considered. The Committee is recommending that the transfer of these functions from the Department of Health to the Department of Insurance and Securities Regulation take place in the FY 2004 Budget Support Act.

The Committee concurs with the viewpoint and goal that DISR should do all it can to encourage insurers and securities firms to locate in the District.

The Committee on Consumer and Regulatory Affairs approves the FY 2004 budget of \$10,244,456 for the Department of Insurance and Securities, as it is presented by the Mayor.

The Committee recognizes that this addition to the FTEs in FY 2004 is a very worthy investment and enthusiastically endorses the increase.

4. With regard to the Department of Banking and Financial Institutions

The Committee directs that the Department commence a search for office space with more modest rent costs that accurately reflect market prices for an office of 27 FTEs.

The Committee directs the Department of Banking and Financial Institutions to revisit its budget request and reconsider the weight to be given to the Department's previous actual revenues, an average of \$1.5 million per fiscal year, in its calculations. The Committee initially proposed limiting this agency's budget to no more than \$1.5 million, given its track record in the collection of revenues. At the April 15, 2003 Committee markup, a motion was made by Councilmember Brazil to approve a FY 2004 budget for DBFI of \$2.4 million and 27 FTEs. The motion passed. Councilmember Catania then made a motion to cut the FTE authority by 2 FTEs, going from 27 FTEs to only 25 FTEs. This second motion also passed.

The Committee requests that DBFI submit a report by the end of FY 2003 on the legal advantages available to financial institutions that charter locally which shall include an analysis detailing the level of legal enforcement each advantage has received, whether through the court system or other legal proceedings.

The Committee requests a report on all of the bills that have been passed that affect DBFI and on the corresponding regulations that should also have been completed. Please submit this report, including the name of the legislation, whether or not there are regulations required, when regulations have been completed or when they will be completed, and if they have not been completed an explanation as to when that will occur. Please submit this report by the end of FY 2003.

In addition, the Department should submit to the Committee a monthly report detailing their revenue flow and explaining how it relates specifically to its expenditures. This report should include a breakdown of exactly how the revenue is generated, stating which industry participants pay dues and fees to the Department.

B. CRA Committee Recommended FY 2004 Budget Support Language

The Committee has reviewed the Mayor's submission of title XVI in the FY 2004 Budget Support Act of 2003. A recommended change has been shared with the Committee with respect the language to abolish the Rental Housing Commission. The new language, which the Committee would suggest should be adopted reads as below:

TITLE XVI. ABOLISHMENT OF THE RENTAL HOUSING COMMISSION

Sec. 1601. Short Title.

This title may be cited as the "Rental Housing Commission Abolishment Amendment Act 2003".

Sec. 1602. Section 2(e)(19) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)(19)), is repealed.

Sec. 1603. Section 1108(c)(1)(C) of District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 6-42; D.C. Official Code § 1-611.08(c)(1)(C)), is repealed.

Sec. 1604. Section 301 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code 2-1803.01) is amended by striking the phrase "shall be entertained and determined by the District of Columbia Rental Housing Commission" and inserting the phrase "shall be governed by the District of Columbia Court of Appeals pursuant to section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-510)".

Sec. 1605. Sec. 19(b) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76, D.C. Official Code § 2-1831.16 (b)), is amended by striking the second sentence.

Sec. 1606. Section 308(d) of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Official Code § 42-2703.08(d)) is amended by striking the phrase "Rental Housing Commission" and insert the phrase "Rent Administrator" in its place.

Sec 1607. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10, D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Sections 201 and 202 (D.C. Official Code §§ 42-3502.01 – 42-3502.02 are repealed.

(b) Section 204 (D.C. Official Code § 42-3502.04) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) The Rent Administrator shall draft rules and procedures for the administration of this act. The rules and procedures in effect on March 31, 2003 shall remain in effect until amended, superseded, or repealed in accordance with this subsection."

(2) Subsection (b) is amended by striking the phrase "according to rules and procedures established by the Rental Housing Commission under section 202(a)(1)".

(3) Subsection (d)(2) is amended to read as follows:

"(2) The Rent Administrator may delegate authority to those employees appointed in conformity with paragraph (1) of this subsection. This authority may include:

“(A) Hearing administrative petitions filed or initiated under this chapter;

“(B) Issuing decisions on the petitions; and

“(C) Rendering final orders on any petition heard by those employees.”.

(4) Subsection (e) is repealed.

(5) Subsection (h)(1) is amended to read as follows:

“(h)(1) The Rent Administrator shall hold hearings; in accordance with the applicable provisions of Chapter 5 of Title 2 on all petitions filed or initiated under this chapter to determine the legal rights, duties, or privileges of the parties. The Rent Administrator shall sit and act at those times and places within the District, administer oaths, and require by subpoena or otherwise the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents the Rent Administrator may consider necessary in carrying out his or her functions under this act.”.

(c) Section 206(b) (D.C. Official Code § 42-3502.06(b)) is amended by striking the phrase “Rental Housing Commission” and inserting the phrase “Rent Administrator” in its place.

(d) Section 208(a)(1)(A) (D.C. Official Code § 42-3502.08(a)(1)(A)) is amended by striking the phrase “Rental Housing Commission” and inserting the phrase “Rent Administrator” in its place.

(e) Section 216 (D.C. Official Code § 42-3502.16) is amended as follows:

(1) Subsection (a) is amended by striking the phrase “or the Rental Housing Commission”.

(2) Subsection (d) is amended by striking the phrase “or the Rental Housing Commission”.

(3) Subsection (h) is amended by striking the second, third, and fourth sentences.

(4) Subsection (k) is amended by striking the phrase “and, where applicable, the Rental Housing Commission”.

(5) Subsection (l) is amended by striking the phrase “the Rental Housing Commission or”.

(f) Section 218 (D.C. Official Code § 42-3502.18) is amended by striking the phrase “Rental Housing Commission, Rental Administrator,” and inserting the phrase “Rent Administrator” in its place.

(g) Section 219 (D.C. Official Code § 42-3502.19) is amended to read as follows:

“Any person or class of persons aggrieved by a decision of the Rent Administrator or by a failure on the part of the Rent Administrator to act within any time certain mandated by this act or with an appeal pending before the Rental Housing Commission at the time of the abolishment of the Rental Housing Commission, may seek judicial review of the decision or an order compelling the decision by filing a petition for review in the District of Columbia Court of Appeals.”.

(h) Section 701 (D.C. Official Code § 42-3507.01) is amended by striking the phrase “Rental Housing Commission” and inserting the phrase “Rent Administrator” in its place.

(i) Section 901 (a) (D.C. Official Code § 42-3509.01(a)) is amended as follows:

(1) Strike the phrase “or Rental Housing Commission, as applicable,”.

(2) Strike the phrase “or Rental Housing Commission”.

(j) Section 902 (D.C. Official Code § 42-3509.02) is amended by striking the phrase “, Rental Housing Commission,”.

(k) Section 904(a) (D.C. Official Code § 42-3509.04 (a)) is amended as follows:

- (1) The lead-in text is amended by striking the phrase “Rental Housing Commission”.
- (2) Paragraph (4) is amended by striking the phrase “the Rental Housing Commission or”.

Section by Section Analysis: The Committee is sharing the Section by Section Analysis to the draft legislation above.

Section 1601 of the title provides the short title of the title.

Section 1602 amends the Confirmation Act of 1978, by repealing the section of the law that gives the Mayor the authority to transmit to the Council for a 90-day period of review, nominations to the Rental Housing Commission.

Section 1603 amends the District of Columbia Government Comprehensive Merit Personnel Act of 1978, to reflect elimination of special authorization for compensation for Rental Housing Commissioners.

Section 1604 amends the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, to reflect elimination of the jurisdiction of the Rental Housing Commission to hear appeals of infractions issued under Chapter 35 of Title 42, or of any regulation issued under the authority of the chapter, and provides for governance by the District of Columbia Administrative Procedures Act (D.C. Official Code § 2-501 – § 2-511).

Section 1605 amends the Office of Administrative Hearings Establishment Act of 2001, to reflect elimination of the Rental Housing Commission’s jurisdiction to review orders of the Office of Administrative Hearings in all cases in which the Rent Administrator, or his or her designee, would have had jurisdiction but for the establishment of the Office of Administrative Hearings.

Section 1606 amends the District of Columbia Housing Finance Agency Act, to reflect a technical correction to the Act to remove a reference to the Rental Housing Commission, thus repealing the authority of the Rental Housing Commission to accept filings of exemption statements simultaneously filed with the District of Columbia Housing Finance Agency, and conferring authority upon the Rent Administrator to accept filings of the same.

Section 1607 amends the following provisions of the Rental Housing Act of 1985:

The amendment of sections 201 and 202 (D.C. Official Code §§ 42-3502.01 – 42-3502.02), repeal those sections of the Act that provide for the composition of the Commission, and the appointment, qualifications, compensation, and procedures for removal of Rental Housing Commissioners. This amendment also repeals the section of the Act that sets out the powers and duties of the Rental Housing Commission.

The amendment of subsection (a) of section 204 (D.C. Official Code § 42-3502.04 (a)) eliminates the need for the Rent Administrator to propose regulations for the administration of the rent stabilization program through the Rental Housing Commission, and establishes the Rent Administrator’s independent authority to draft and implement rules and procedures for the administration of the program. This provision also adds new language: “The rules and procedures in effect on March 31, 2003 shall remain in effect until amended, superseded, or repealed in accordance

with this subsection.” The purpose of this additional language is to provide authority and clarity about which rules will apply as the underlying rulemaking authority is changed to assure continuity.

The amendment of subsection (b) of section 204 (D.C. Official Code § 42-3502.04 (b)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission, thus eliminating the Rental Housing Commission’s authority to establish rules and procedures under which the Rent Administrator must administer the rent stabilization program.

The amendment of subsection (d)(2) of section 204 (D.C. Official Code § 42-3502.04 (d)(2)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission. This section establishes the Rent Administrator’s authority to delegate certain powers to employees, but only in accordance with regulations issued by the Rental Housing Commission. Under the amendment, the Rent Administrator may delegate to employees appointed in conformity with paragraph (1) of the subsection, the authority to (1) hear administrative petitions filed or initiated under the chapter, (2) issue decisions on petitions, and (3) render final orders on any petition heard by those employees, independent of regulations issued by the Rental Housing Commission.

The amendment of subsection (e) of section 204 (D.C. Official Code § 42-3502.04(e)) repeals the Rent Administrator’s authority to attend policy meetings of the Rental Housing Commission.

The amendment of subsection (h)(1) of section 204 (D.C. Official Code § 42-3502.04 (h)(1)), establishes a requirement that the Rent Administrator hold hearings in accordance with applicable provisions of the District’s Administrative Procedures Act (Chapter 5 of Title 2), in those instances where petitions are filed or initiated under this section of the Act, to determine the legal rights, duties, or privileges of the parties. The amendment also expressly requires that the Rent Administrator sit and act within the District, to administer oaths, and require by subpoena the attendance and testimony of witnesses and the production of books, records, correspondence, memoranda, papers, and documents, the Rent Administrator considers necessary in carrying out his or her functions under the chapter.

The amendment of the first sentence of subsection (b) of section 206 (D.C. Official Code § 42-3502.06 (b)) repeals the Rental Housing Commission’s authority to determine annual adjustments of general applicability in rent ceiling cases established by subsection (a) of this section. The amendment also confers the authority upon the Rent Administrator.

The amendment of the second sentence of subsection 208(a)(1)(A) (D.C. Official Code § 42-3502.08 (a)(1)(A)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission, thus eliminating the Commission’s authority to establish evidentiary standards for *evidence of substantial noncompliance* and other *offers of proof* through a rulemaking process. The amendment now allows the Rent Administrator to establish evidentiary standards for *evidence of substantial noncompliance* and other *offers of proof* through a rulemaking process.

Amendment of section 216(a) (D.C. Official Code § 42-3502.16(a)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission. This section had established the authority of the Rental Housing Commission or the Rent Administrator to determine the information to be provided by housing providers or tenants, in petitions for rent adjustments covering capital improvements. The amendment would repeal the authority of the Rental Housing

Commission to make such determinations, leaving the authority resting solely with the Rent Administrator.

Amendment of section 216(d) (D.C. Official Code § 42-3502.16(d)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission. This section currently establishes the authority of the Rental Housing Commission or the Rent Administrator to determine the information to be provided by housing providers, in housing petition cases. The amendment eliminates the authority of the Rental Housing Commission to make such determinations and confers the same solely with the Rent Administrator.

Amendment of section 216(h) (D.C. Official Code § 42-3502.16(h)), reflects a technical correction to the Act to remove several references to the Rental Housing Commission, thus repealing the authority of the Commission to hear appeals of the Rent Administrator's decisions within 10 days of the issuance of a decision, or on the Commission's own initiative. This amendment also repeals the authority of the Commission to reverse decisions of the Rent Administrator found to be arbitrary, capricious, an abuse of discretion, not in accordance with the provisions of the chapter, or unsupported by substantial evidence on the record.

Amendment of section 216(j) (D.C. Official Code § 42-3502.16(j)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission. This section of the Act establishes the requirement that all decisions of the Rent Administrator or the Rental Housing Commission, be mailed by certified mail or other form of service which assures delivery of the decision to the parties. The amendment repeals the requirement as to the Rental Housing Commission only.

The amendment of section 216(k) (D.C. Official Code § 42-3502.16(k)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission. This section of the law mandates that the Commission accord priority to any housing provider hardship petition which covers a housing accommodation for which the federal government is entitled to approve rent increases, where the processing of such petition has not begun within 45 days immediately following the filing of the petition. The amendment deletes any reference to the Rental Housing Commission, although the same is still required of the Rent Administrator.

The amendment of section 216(l) (D.C. Official Code § 42-3502.16(l)), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission. This section of the Act prohibits implementation of rent increases by housing providers above those authorized by the Rent Administrator, where there is a pending appeal on the issue of the validity of an increase before the Rental Housing Commission. The amendment of this section, mirrors the prohibition, but appropriately reflects the District of Columbia Court of Appeals as the forum of the pending appeal.

Amendment of section 218 (D.C. Official Code § 42-3502.18), reflects a technical correction to the Act to remove a reference to the Rental Housing Commission. This section of the Act confers authority upon the Rental Housing Commission, the Rent Administrator, or any affected housing provider to commence a civil action in the Superior Court of the District of Columbia to enforce a rule or decision issued under the chapter. The amendment repeals the authority of the Commission to commence a civil action in Superior Court to enforce any rule or decision issued under the chapter.

The amendment of section 219 (D.C. Official Code § 42-3502.19), reflects a technical correction to the Act to remove references to the Rental Housing Commission. This section of the Act establishes the rights of persons aggrieved by any decision of the Rental Housing Commission, or by any failure on the part of the Rental Housing Commission or Rent Administrator to act within a time certain, to seek judicial review of the decision or an order compelling the decision, by filing a petition for review with the District of Columbia Court of Appeals. The amendment to this section conveys upon those persons or classes of persons with appeals pending before the Rental Housing Commission at the time of its abolishment, the right to file a petition for review with the District of Columbia Court of Appeals.

The amendment of section 701 (D.C. Official Code § 42-3507.01) establishes the authority of the Rent Administrator to prescribe the content of notices housing providers are required to provide tenants in instances where the provider proposes substantial rehabilitation, demolition, or discontinued use of the accommodation. This same authority previously rested with the Rental Housing Commission.

The amendment of section 901(a) (D.C. Official Code § 42-3509.01) reflects a technical correction of the Act to remove a reference to the Rental Housing Commission. This section of the law requires that the Rent Administrator or the Rental Housing Commission hold liable those persons who knowingly (1) demand or receive rent for a rental unit in excess of the maximum allowable rent applicable to that rental unit under the provisions of subchapter II of this chapter, or (2) substantially reduce or eliminate related services. The remedy expressly provided for is rollback of rent. The amendment deletes any mention of the Commission and leaves the requirement with the Rent Administrator.

The amendment of section 902 (D.C. Official Code § 42-3509.02) repeals the authority of the Rental Housing Commission to award reasonable attorneys fees to the prevailing party in any action brought under this section, except actions for eviction authorized under §42- 3505.01, leaving the authority with the Rent Administrator.

The amendment of section 904 (a) (D.C. Official Code § 42-3509.04 (a)) repeals the authority of the Rental Housing Commission to set rules delineating service of process, and conveys the authority to the Rent Administrator to promulgate the same.

IX. Committee Action

The Committee on Consumer and Regulatory Affairs met to consider the Committee's FY 2004 Budget Request and Budget Report on Tuesday, April 15, 2003, in the Council Chamber, starting at approximately 12:18 pm. The Chair of the Committee, Councilmember Ambrose (D-Ward 6), called the meeting to order and acknowledged that Committee members, Councilmembers Brazil (D-At-Large), Catania (R-At-Large), Allen (D-Ward 8), and Mendelson (D-At-Large) were all present and constituted a quorum.

Chairperson Ambrose made a detailed opening statement regarding the Committee's actions with respect to the FY2004 budget request of the agencies under the Committee's oversight. She emphasized that DCRA is the only agency under the purview of this Committee which receives any local appropriated funds in its budget, while the D.C. Housing Authority is funded exclusively by through U.S. Department of Housing and Urban Development (HUD) grants and the other 3 agencies (ABRA, DISR, and DBFI) are designed to be completely self-sustaining through dedicated, special purpose funds which may not, by law, be shifted from one agency to another or from one program to another. In fact, the Insurance Department is funded by a trust fund with even more restrictions upon it.

Chairperson Ambrose shared that when she heard that the Federal Government was forecasting the possibility of a 30% cut to all housing authorities, she had written to HUD Secretary Martinez to express her concern. Ultimately, the Bush administration kept this reduction limited to a 10% cut and the Secretary shared that information with Chairperson Ambrose in reply to her letter. Chairperson Ambrose expressed her appreciation to HUD's Secretary for limiting the anticipated reduction to the Housing Authority's budget, but continued to express concern for holding the Authority's programs harmless in light of any cuts.

Chairperson Ambrose added that the Mayor's proposed language in the FY 2004 Budget Support Act of 2003 included only 2 changes under this Committee's purview: (1) the transfer of the Educational Licensure Commission from DCRA to the State Education Office and (2) the abolition of the Rental Housing Commission with those appeals going directly to the District of Columbia Court of Appeals.

Chairperson Ambrose noted that when first presenting his FY 2004 budget, the Mayor did not include certain new revenue estimates. However, subsequent to the release of the Mayor's budget, the Committee obtained notification from the Chief Financial Officer that it will be formally certifying new "O-type" revenue certifications in late May. After completing a full analysis, the Committee initially accepted all but one of the CFO's certified revenue estimates and adjusted the respective agency's budgets accordingly.

Chairperson Ambrose then summarized the budget proposals for each agency, beginning with the Department of Banking and Financial Institutions (DBFI). Chairperson Ambrose stated that the Committee did not accept the Mayor's budget request for DBFI. The Committee found that if DBFI does not collect more revenue in FY 2003, it is going to have to layoff employees, take furlough days, or somehow adjust its spending downward – starting May 1, 2003. DBFI is supposed to be completely self-sustaining and while last year, the Deputy Mayor bailed them out with local funding, such is impossible to do this year with the shortfall in revenue across the government. Thus, the budget the Committee had set for DBFI was \$1.5 million with 16.2 FTEs, not the \$2.4 million and 27

FTEs requested, which budget mark reflected the Committee's judgment that any amount budgeted beyond this amount would place this agency in an illegal deficit.

Chairperson Ambrose then analyzed DCRA's budget. The Mayor proposed a FY 2004 budget of \$29,536,000 and 384 full-time equivalents ("FTEs") for DCRA. Subsequent to the agency's presentation of its budget, the Budget Director for the Economic Development and Regulation cluster informed the Committee of a problem with the FTE numbers presented for DCRA's budget. She indicated in an email dated April 10, 2003, that "the Full Time Equivalent count for DCRA that was submitted during the Budget process in the form of the "Budget Load" was flawed, and is therefore erroneously showing an inflated "O-Type" FTE count by 16 (these FTEs should be in Local funds). ...[i]t appears as if there was a cut of 2 FTEs associated with a gap-closing initiative proposed to the Mayor that was not accepted, and the budget was restored. However, the 2 FTEs were accidentally cut out of the budget, and not restored to the FTE count when the budget was sent down. The true FTE count should be as follows: Intra-District, 1; Local, 332; O-Type, 53; for a total of 386." Chairperson Ambrose then stated that the Committee accepted these new numbers for DCRA's FTE count.

Chairperson Ambrose stated that at the Committee's March 21st FY 2004 Budget Hearing, the Director of DCRA had indicated that DCRA's proposed FY 2004 local funds budget is \$23,717,069 – representing a decrease of \$887,708 from the FY 2003 approved budget. The proposed budget – prior to a subsequent change in the certified revenues – for "O-type" funds is \$5,727,441, representing an increase of \$42,786 from the FY 2003 current budget. Subsequent to this testimony being taken, a new certification of "O-type" revenue was presented to the Committee by the Chief Financial Officer which will be formally certified in late May. The new "O-type" revenue figures show that DCRA would have \$7,123,350, an increase of \$1,395,000 from the amount budgeted in the Mayor's Budget book. Chairperson Ambrose stated that the Committee has accepted this new funding and the enhancement of \$1,395,000 has been placed in the NPS line.²¹

Chairperson Ambrose then stated that the Mayor's FY 2004 capital budget request for DCRA funds only 2 of 3 requested capital projects: the establishment of a real property database and digitization of surveyor's plats. The Mayor denied DCRA's own request for enhanced funding for

²¹ This represents 2 enhancements to operations at DCRA, one to business licensing and the other to nuisance abatement. The main enhancement is to the ongoing operations of the Nuisance Abatement program at the agency, which involve using a list of approved contractors to conduct actual abatement activities (cleaning and barricading properties) after violations are found by the Neighborhood Stabilization Officers and these are not abated by the property owners. Then, the District has the right to go on the property (after giving notice) and abate the violation and go after the property owner to get back its outlay of funds for abating the owner's violation. Any money thus collected is supposed to go back into the Special Purpose Nuisance Abatement Fund. Unfortunately, it can take a long time or become impossible to collect money from property owners who may have abandoned their property. This enhanced revenue stream will be very helpful to the agency this year. There still remains a problem for the out-years to keep the District's capability of staying on top of this issue. In prior years the District had utilized inmates at Lorton and the National Guard to assist the government in abatement activities. Neither of those options is currently available – Lorton has been closed and National Guard members are deployed overseas – thus, contractors must be used instead.

nuisance abatement, but did include capital funding under the code for the Deputy Mayor for Economic Development and Planning for DCRA's use. Chairperson Ambrose stated that when the Deputy Mayor for Economic Development and Planning appeared before the Committee on Economic Development at that Committee's FY 2004 Budget Hearing, he indicated that there was \$4 million in capital funding in FY 2004 for DCRA's use for nuisance abatement along with what is currently left over in the Nuisance Abatement fund, or approximately \$2.8 million.

Chairperson Ambrose stated that it is the belief of the Committee that having adequate resources as a result of proper capital funding over the last few years was a major reason for the agency's success in effectively addressing nuisance properties. Chairperson Ambrose stated that according to the CFO's projections, the current account balance for nuisance abatement is \$2.8 million. The capital budget would add an additional \$4 million to that carried-over amount. Chairperson Ambrose opined that such will be adequate for FY 2004, but will present budgeting difficulties for future years. Chairperson Ambrose then stated that the Committee recognized the new \$4 million, but has some concerns about the Mayor's long-range planning for funding this ongoing need.²² Chairperson Ambrose then directed that the agency and Deputy Mayor continue to watch the need for funding in the Nuisance Abatement fund and plan for FY 2005 and beyond.

Chairperson Ambrose then turned to the Mayor's recommendation to abolish the Rental Housing Commission, stating that the Mayor's budget proposal for FY 2004 would abolish the Commission and instead permit appeals from the Rent Administrator's decisions to be taken directly to court. The initial draft language in the FY 2004 Budget Support Act of 2003 instructed that all the rental housing cases go to the Superior Court *de novo*; however, new draft language that has been shared with the Committee would send cases to the District of Columbia Court of Appeals.²³ Chairperson Ambrose

²² The Committee has been informed that DCRA has indicated to the CFO that it has the capacity to use at least \$6.4 million each year on these activities; thus, the Nuisance Abatement fund would be adequate for operations in FY 2004. It is a one-year fix, however. The fund is a revolving fund, and while DCRA has improved its ability and capacity to collect on liens it has placed on violators, collecting the full amount due is arduous and not always very successful against deadbeat property owners. Moreover, vacant property registrations under a new law that requires these to be filed have been coming in more slowly than anticipated. The fees from these registrations are to go into the Nuisance Abatement fund, but for the present, it is more likely that regular infusions of other new funding will continue to be required.

²³ On April 8, 2003, the Director of DCRA appeared before the Committee of the Whole to share the Mayor's language for the Budget Support Act regarding the abolishment of the RHC. He noted that DCRA's proposed FY 2004 budget reflects a \$1,272,000 anticipated reduction from the FY 2003 Baseline Budget. Mr. Clark shared that, given the budget reductions for FY 2004, the Department has had to make some very difficult decisions regarding program priorities for the coming Fiscal Year. They had to decide whether to fund programs that directly impact the health and safety of the District's residents or other important service programs. It was a difficult decision to abolish the RHC, but that decision was directly related to the agency's budget reductions. Mr. Clark shared that the agency recognizes that this process is a change for landlords and tenants. However, the change does not impact on the rights of the appellant. In addition, having issued decisions and orders for more than 20 years, the RHC has established a library of case precedents. This information will continue to be a helpful resource that is

stated that the Committee made some inquiries about the number of cases previously sent from the Commission to the Court of Appeals. The current number of cases on appeal to the DC Court of Appeals from the Rental Housing Commission is 7. This includes 2 cases from FY 2003 and 5 from FY 2002. Chairperson Ambrose then stated that the Committee's recommendation is for legislation which would direct that appeals be taken directly to the District of Columbia Court of Appeals, given the budget constraints facing the District and the steady decline in the number of appeals brought and decided by the RHC. For this reason, Chairperson Ambrose stated that the Committee accepted the Mayor's Budget Support Act recommendation and told DCRA to proceed and to report on its transition plans for the abolition of the Commission. Chairperson Ambrose further added that the Committee directed the agency to stop sending any new cases to the RHC from now on and to immediately start to share with tenants and landlords with cases before the Rent Administrator what the next steps will be. Chairperson Ambrose then stated that despite the Committee's support of the legislation, the Committee would encourage DCRA to consider developing a tenant advocacy program within existing funding at the agency.

Chairperson Ambrose then addressed vacancies at DCRA, stating that the Director of DCRA, at the Committee's March 21st budget hearing, testified that a major portion of the agency's FY 2004 budget reduction – \$889,000 – would be realized through the imposition of a hiring freeze, while the remainder will be achieved through the proposed abolishment of the functions of the Rental Housing Commission and other reductions in telecommunications, travel, and fleet maintenance. She stated that out of DCRA's then current 27 locally funded and vacant positions, the agency's FY 2004 budget will only allow the filling of 6 positions. Many of these are in critical Building and Land positions, several are in the Neighborhood Stabilization Program (NSP), and others are in investigations, compliance, and enforcement. Chairperson Ambrose stated that none of these positions should be lost, but unless money is found, they will be. These are key functions at this agency – development and enforcement activities depend on them. Chairperson Ambrose then requested that the agency to work with the rest of the Executive to determine how to preserve these positions in light of the falling revenue stream.²⁴

accessible to appellants as well as the Rental Accommodations and Conversion Division and the courts. Parties can use this library as a research tool to assist them in preparing and litigating their cases. The library is readily accessible and user friendly.

²⁴ Chairperson Ambrose stated that despite some wonderful results at DCRA, the Committee remains very concerned about the operations of BLRA. And now the need to keep the pace that DCRA has set in light of the vacancies in this part of the Department make both the Zoning Administrator and Permitting operations in this Administration a matter of concern. Chairperson Ambrose further stated that the Committee concurs with both the praise and criticism in the DCBIA's remarks regarding operations at BLRA. In particular, given the current level of vacancies in BLRA, the agency will be hard pressed to continue to improve in this area without a game plan. Chairperson Ambrose then requested the agency to report back to the Committee upon adopting the 7-day permit turnaround category the DCBIA has suggested for intermediate projects. DCRA has a goal of issuing uncomplicated building permits with 7 days. Finally, Chairperson Ambrose further directed the Director and the BLRA Administrator to share their plans for this area of the agency by FY 2003's end – how the vacancies will be dealt with, training that will be provided, and how the functions in BLRA will be improved.

Chairperson Ambrose then analyzed the budget request from the Department of Insurance and Securities Regulation. For FY 2004, DISR is proposing a gross operating budget of \$10,244,456. That is an increase of \$478,146 from the FY 2003 budget of \$9,766,310. The number of authorized FTEs supported by the proposed budget is 107 which is 4 more than in FY 2003. Part of the increase of \$368,428 is needed to fund 4 additional FTE'S and other Non-Personal Services expenditures. Two of these positions are needed in the licensing division to implement the recently acquired SBS system, which will process licenses this year for 31,000 resident and non-resident procedures, 89,000 insurance company producer appointments, and 1,300 insurance providers. The other 2 FTEs would assist in handling the additional consumer complaints that DISR has received. The balance of the increase, \$150,694, is for negotiated cost of living increases for union employees and step increases for all DISR employees. Chairperson Ambrose then stated that the Committee on Consumer and Regulatory Affairs has approved the FY 2004 budget of \$10,244,456 for the Department of Insurance and Securities, as it is presented by the Mayor, with the additional revenues to be certified by the CFO.

Chairperson Ambrose concluded her opening statement with an analysis of the Alcoholic Beverage Regulation Administration. For FY 2004, ABRA initially proposed a gross operating budget of \$3,016,000 and 36 FTEs which represents no change from FY 2003's budget authority. While the personal services part of the FY 2004 proposed budget has been increased by \$181,000, at the same time the non-personal services would be decreased by \$181,000. The personal services increase is due to promotions and reclassifications of positions, including fringe benefits, as well as the hiring of 8 FTEs.

Chairperson Ambrose then added that ABRA will also have new "O" revenues certified in late May, to the extent of \$510,000 more. Chairperson Ambrose noted that the agency had asked the Committee for budget authority for an additional 6 FTEs, so it can expand its staff from 36 to 42 FTEs in FY 2004. Initially, the agency thought it would have to make this enhancement contingent upon the approval and implementation of ABRA's fee increase that would occur through approval of the soon-to-be proposed ABC regulations. Chairperson Ambrose noted that ABRA would not have to wait for the additional \$510,000, since that additional revenue would soon be certified and would allow ABRA to hire these new FTEs more quickly. Thus, the Committee accepted the additional revenues and expanded the new FTE authority herein. Chairperson Ambrose then explained that expanding ABRA's FTE authority by 6 would allow ABRA to add 6 additional investigators to fill the needs of the Cooperative Agreement/Regulatory Inspection and Specialized Units as well as to staff a new ABRA Licensing Renewal Team. Chairperson Ambrose stated that the Committee also still recommends that ABRA raise its fees, as is planned under the proposed ABC regulations. Given the revised revenue estimates from the CFO and the carryover amounts in the ABRA fund, Chairperson Ambrose summarized that the Committee approved increasing ABRA's FTE authorization by 6 to a level of 42 and thereby approved increasing ABRA's total budget by \$510,300 to a total of \$3,526,000.

Councilmember Brazil made a motion to return DBFI's budget authority to the level first proposed by the Mayor.²⁵ Chairperson Ambrose then asked Councilmember Brazil if he was

²⁵ The Committee initially recommended an FY 2004 operating budget of \$1.5 million and 16.5 FTEs. At the April 15, 2003 Committee markup a motion was made by Councilmember Harold Brazil that approved DBFI's originally proposed budget authority of \$2.4

proposing that the Mayor provide DBFI additional local funding again in FY 2004 as was done in FY 2003 to make up any revenue shortfall. Chairperson Ambrose further inquired whether Committee members wanted to allow DBFI to continue to spend up the level that they have in previous years, when they were not collecting sufficient revenue to be completely self-sustaining. Councilmember Brazil responded by stating that he wanted to allow DBFI to continue to have the authority to spend at the higher level and have the higher authorized level of employees than the Committee was recommending.

Chairperson Ambrose spoke to the feasibility of Councilmember Brazil's proposal, repeating her contention based on testimony that was received that DBFI is raising enough revenue through its own programs to cover its expenses. Chairperson Ambrose argued that by continuing to allow the higher budget authority, the Council and the Mayor would be telling DBFI to go ahead and spend beyond their means and suggest that someone will bail them out. Chairperson Ambrose further added that DBFI does not regulate banks unless they are locally chartered, and reminded Members that none are so chartered at present.

Councilmember Brazil replied that DBFI has become a zealous consumer information agency. Chairperson Ambrose agreed and stated that although such achievements were noteworthy, these activities did not bring in any revenue, but rather were an expenditure which taxpayers may not be able to afford. She added that DBFI has no authority to enforce the Community Reinvestment Act and no regulatory or enforcement authority over any bank in the District (as these are either federally chartered or state-chartered elsewhere). She reminded Members that when DBFI was first formed, it was anticipated that the District would have more locally-chartered banks, but such never occurred. Only one bank has applied, but has since failed to open due to insufficient capitalization. Chairperson Ambrose then asked Councilmember Brazil if the Committee of which he is chair – the Committee on Economic Development – would have some agency under his purview give up money to make up for the anticipated deficit.

Councilmember Allen shared her opinion that DBFI performs a valuable service and she argued against cutting its funding level, stating that she wanted it to remain at the same level initially proposed by the Mayor. Councilmember Allen further stated that she believed that DBFI's office space lease at \$32 a square foot was less than the market price. Chairperson Ambrose clarified that since DBFI is an independent agency required to pay for its operations out of the revenues it raises from its operations, the issue before the Committee was not a cut in funding, but rather a cut in the agency's budget authority to spend. Thus, the proposal to cut DBFI's proposed budget authority was made to ensure that it does not spend beyond its revenues. Chairperson Ambrose further noted that the Committee's proposal has nothing to do with the quality of the job DBFI is doing, but rather that this agency was designed to be self-sustaining and it is not at present.

Councilmember Catania recognized and asked Rebecca Sibia, Budget Director for the Economic Development cluster, who attended the mark-up, to answer some questions, including how many FTE's the agency had. Ms. Sibia responded that DBFI has 27 authorized FTEs, with 2 vacancies which are being filled. Councilmember Catania then inquired into how could they be hiring

million and 27 FTEs. The motion passed. Councilmember David Catania then made a motion to reject DBFI's request for 27 FTEs and approve only up to 25 FTEs. The motion passed. As a result, the Committee approved a DBFI FY 2004 budget of \$2.4 million and 25 FTEs.

when there is a hiring freeze. Ms. Sibilia responded that DBFI was using “O” type funds, and the positions were advertised prior to the freeze.

Councilmember Catania then made a motion proposing that DBFI not be allowed to hire these 2 new hires, and that the FTE level be kept at 27. Chairperson Ambrose clarified that the Committee’s recommendation was that the FTE level be reduced to 16. Councilmember Catania stated that he sympathizes with both positions, but understood that an agency cannot exist beyond its means.

Councilmember Catania further recommended taking \$500,000 from ABRA. Chairperson Ambrose argued that ABRA’s \$500,000 was raised for regulatory purposes solely at ABRA. Those regulated by the agency and who paid the fees would be upset if funds were raided for other, unrelated purposes. Moreover, the Chair noted that the \$500,000 had been earmarked for new ABRA inspectors.

Councilmember Catania stated that it would not be the first time the Council raided an “O” type fund. Councilmember Catania then stated that although he was concerned over the explosive growth of employees in DCRA, the cuts proposed for DBFI are draconian in his opinion.

Councilmember Catania then stated he was looking for a middle ground and the he would not vote for the Committee’s proposed DBFI cut. Councilmember Catania then made a motion that a compromise number of 25 FTEs be accepted and that the DBFI be given its full budget authority this year, with a warning that this is the last time, and that it must begin living within its means. Councilmember Brazil then moved to cut off debate. The motion to cut off debate was passed unanimously.

Councilmember Mendelson reported on a memo he received from the CFO which said DBFI had a projected revenue of 2.4 million and thus he did not see a problem. Chairperson Ambrose responded that the DBFI has never collected enough revenue to meet its projected budget goals for the last 3 fiscal years.

Chairperson Ambrose called for a vote approving the Mayor’s proposed \$2.4 million and 27 FTE budget authority for DBFI. The motion was passed by a voice vote. Chairperson Ambrose was the only “No” vote.

Councilmember Catania then moved for a reduction of the Mayor’s proposed DBFI 27 FTE budget authority by 2 FTEs, down to 25 FTEs. Councilmembers Catania, Allen and Mendelson voted in favor, while Chairperson Ambrose and Councilmember Brazil voted against. The motion passed.

Councilmember Kevin Chavous then asked the Committee to include language in its Budget report regarding the growing number of abandoned properties in Ward 7. Councilmember Chavous expressed his desire that the Department of Public Works work more closely with DCRA to clean up vacant lots, particularly those on a list provided of properties in Ward 7. Councilmember Chavous asked that the report urge DCRA to develop programs to specifically address the problem of vacant

and abandoned buildings in Ward 7. Councilmember Chavous submitted a list of such properties for inclusion in the report. The Chair of the Committee assented to Councilmember Chavous' requests.²⁶

Councilmember Catania then stated his concerns about the number of what he claimed was the huge growth of the number of FTEs in DCRA and other agencies. According to Councilmember Catania, DISR had a 16% increase in employees, ABRA went up from 21 to 42 or a 100% increase in FTEs over 2 years – and DCRA has 386 total positions.

Councilmember Catania then made a motion to limit the number of FTEs at DCRA to 370. Councilmembers Catania and Allen voted in favor, while Chairperson Ambrose and Councilmembers Mendelson, and Brazil voted against. The motion failed.

Councilmember Mendelson recommended a change in report language at several pages of the Committee's Report. Councilmember Mendelson also asked that his concern on the abolition of the Rental Housing Commission be noted in the report. Chairperson Ambrose stated that the Committee would be happy to add his suggested changes in the report.²⁷

Councilmember Catania stated that he believes that the Committee has allowed rampant growth and zero fiscal constraint at ABRA, DISR, DBFI, and DCRA. Councilmember Catania then stated that he did not support the Committee's budget because it permits uncontrolled growth.

Chairperson Ambrose clarified that the growth in DCRA has been in inspectors and investigators, which are so greatly required. In ABRA, she noted, there has been a 100% increase only because it did not exist until last year. As for DISR, Chairperson Ambrose noted that the agency supports itself 3 times over. She added that it is more than supported by its own fees and far from a burden on the taxpayers.

Chairperson Ambrose moved for a vote on the approval of the FY 2004 Committee budget request and the Committee Report. Chairperson Ambrose, Councilmembers Brazil, Allen, and Mendelson voted in favor, while Councilmember Catania voted against. The motion passed. The budget markup was adjourned at 2:04 pm.

²⁶ Councilmember Chavous' requested language was included in the report as well as in attachment B-2.

²⁷ Councilmember Mendelson's requested changes to the report were incorporated into this report accordingly and footnoted.